February/March, 1976

LAW ENFORCEMENT NEWS

Vol. II, No. 2

LAW ENFORCEMENT NEWS
444 West 56th Street
Room 3206
New York, NY 10019

IN THIS ISSUE

Impoundment of U.S. Funds for Chicago Puts Minority Hiring Pressure on Other Police Forces

By MICHAEL BALTON

Pressure is mounting on many of the nation's police departments to initiate more equitable minority hiring practices. More than 50 "judicial decrees or judgments" have been handed down on discriminatory police employment methods, according to the American Civil Liberties Union.

Chicago has been affected the most by court decisions. Its police department has had an estimated $95 million of its revenue sharing allocation impounded. The money will continue to be kept from the force until the city complies with a court order on minority hiring.

The complex Chicago litigation originated over five years ago in Federal District Court, when a complaint was filed by black police officer Renault Robinson and the Afro-American Patrolmen's League against the former Police Superintendent, James B. Conlisk, Jr., against the members of the Police Review Board, and against the city itself. Almost three years elapsed during which various judges sifted through a series of contested discovery proceedings and motions addressed to the proceedings.

Renault A. Robinson, Executive Director of the Afro-American Patrolmen's League.

In May, 1973, a similar complaint was filed against the city of Chicago and others by a number of Hispanics and blacks who had sought appointment to the Chicago force. Three months later, the Justice Department filed a suit against the city, Conlisk, and the Civil Service Commission of Chicago. It alleged a pattern and practice of racial and sexual discrimination by the defendants in respect to employment, promotion, assignment and discipline in the police department, all in violation of the Civil Rights Act of 1964. After a year of legal altercation, the three cases were consolidated, despite a motion by the city that separate trials were necessary. Federal Court Judge Prentice H. Marshall was assigned to try the joint action.

Meanwhile, Robinson, the Afro-American Patrolman's League, and the NAACP commenced an action in Washington's Federal District Court against Treasury Secretary William E. Simon and the officials of the Office of Revenue Sharing (ORS). They charged that the Chicago Police Department's discriminatory practices violated sections of the State and Local Assistance Act of 1972 which provides revenue sharing allotments. In Chicago's case, a major portion of the funds go to the city's police department.

After the Washington court ruled to cut off Chicago's revenue sharing payments, the ORS case was transferred and consolidated with the other Chicago suits. This led to a situation in which the Federal Government was on both sides of the fence: a defendant in the form of Simon and ORS and a plaintiff in the Justice Department complaint. In the lastest decision on the case, Judge Marshall wrote that the Government "has not entirely reconciled

Continued on Page 2

Police Warrantless Arrest Power Expanded by Supreme Court

The power of law enforcement officials to make arrests in public without a bench warrant, even in situations where there might have been adequate time to secure one, was expanded by the Supreme Court in a 6-2 decision handed down on January 26.

Over the dissent of its two most libertarian members, the Court ruled that the Constitution simply requires that the officer have probable cause to believe that the person being arrested committed a felony.

The decision, which is seen as a continuation of the current Supreme Court's move away from the decidedly pro-defendant interpretations of the Fourth Amendment made by the Warren Court, was issued in the appeal of Henry O. Watson from a conviction for possession of stolen mail.

An informant named Awad Khoury had told a federal postal inspector with whom he had had previous contact that Watson had a stolen credit card and had asked Khoury to assist him in using it to their mutual advantage. Khoury delivered the card to the postal inspector who, after being told that Watson had agreed to supply additional cards, asked Khoury to set up another meeting with Watson. Postal inspectors arranged to observe the meeting, and Khoury was told to give them a signal if Watson had more credit cards.

After getting a sign from Khoury, the inspectors arrested Watson but found no cards. Watson approved an inspector's request to search his car, and still agreed to the search when told that anything found there could be used against him. Cards were then found, and Watson was later tried and convicted in Federal Court on the stolen mail charge.

Justice Byron F. White, writing for the majority, based his opinion on traditional concepts of warrantless arrests expressed in both English common law and certain Federal and state statutes. He also noted

Continued on Page 15

Ford Calls for $102M Slash in 1977 LEAA Funding

President Ford has called for a $102.7 million cut in the Law Enforcement Assistance Administration budget but has requested additional funds for the Federal Bureau of Prisons, the Drug Enforcement Agency and selected Justice Department central divisions.

Ford's fiscal year 1977 budget, sent to Congress on January 21, reflects a "cautious, more evaluative approach to [LEAA] financial assistance to state and local criminal justice improvement programs," according to Deputy U.S. Attorney General Harold R. Tyler, Jr.

The President himself gave little indication of the 12.7 percent LEAA budget decrease in his State of the Union Message. "As President I pledge the strict enforcement of Federal Laws and — by example, support, and leadership — to help state and local authorities enforce their laws," he said. However, he did stress that "the greatest responsiblity for curbing crime lies with state and local authorities."

Fiscal year 1977 will begin on October 1, 1976. If the President's budget is passed

Continued on Page 4

Ernesto Miranda, 34, Slain in Phoenix Bar Fight Stabbing

Ernesto Miranda, the subject of one of the Supreme Court's most controversial decisions of the 1960's, was stabbed to death in Phoenix on January 31 in what police said appeared to be a bar fight.

Although few details were immediately available, police said that Miranda, 34, was declared dead on arrival at a Phoenix hospital of numerous stab wounds.

The Supreme Court's landmark decision involving Miranda, which required that police inform suspects in custody of their constitutional rights, was handed down in 1966 when the Court reversed Miranda's conviction for kidnapping and rape. He was later retried on the charges, and was again convicted and sentenced to 20 to 30 years in prison.

Paroled in 1972, Miranda was arrested on a firearms possession charge in 1974 when he was stopped for a traffic violation. The charge was later dropped

It was reported that at the time of his death, Miranda had two cards in his pocket, on which were printed the four-part "Miranda warnings" mandated by the Supreme Court.

Wide World Photos

Ernesto Miranda, seen here at the time of his second conviction on rape and kidnapping charges.

Upcoming Events

February 27-29, 1976. Seminar "The Courts and You – A Seminar for the Working Press." At the campus of the University of Nevada at Reno. For further details, contact: Conference and Training Director, American Bar Assn Section of Criminal Justice, 1800 M Street, N.W., Washington, D.C. 20036. (202) 331-2260. (Co-sponsored by the ABA and the National College of the State Judiciary.)

• • •

March 14-18, 1976. Third National Conference on Juvenile Justice. Rivergate Convention Center, New Orleans, Louisiana. Registration fee $150.00 (does not include lodging). For details and registration, contact: Third National Conference on Juvenile Justice, National District Attorneys Assn., 211 East Chicago Avenue, Suite 1515, Chicago, IL 60611. (312) 944-2577. (Co-sponsored by NDAA and the National Council of Juvenile Court Judges.)

• • •

March 24-26, 1976. Annual Conference of the Academy of Criminal Justice Sciences Royal Coach Inn, Dallas, Texas. For details, contact: Wordie Burrows, Assn of Texas Law Enforcement Educators, 503-E Sam Houston Bldg., Austin, TX 76701

• • •

March 29-31, 1976. Government Project Management Seminar. Ambassador Hotel, Chicago, Illinois. Registration fee. $295.00. For more information, write: NTIS Registrations, New Management Center, P.O. Box 2409, Grand Central Station, New York, NY 10017. (Sponsored by National Technical Information Service, U.S. Department of Commerce.)

• • •

March 30-April 3, 1976. Annual Conference of the California Assn. of Administration of Justice Educators Sherton Harbor Island Hotel, San Diego, California. For additional information, contact CAAJE Confetence Office, 1521 Sharon Road, Santa Ana, CA 92706. (714) 836-4648.

• • •

April 8-9, 1976. Workshop. "Police Socialization – Creating an Anti-Corruption Climate." Ramada Inn, San Francisco, California. Registration fee: $35.00 (does not include lodging). For further details and registration, contact. Robert McCormack, Anti-Corruption Management Project, John Jay College of Criminal Justice, 448 West 56th Street, New York, NY 10019. (212) 247-1600.

• • •

April 14-17, 1976 Third National Symposum on Criminal Justice Planning. New Orleans, Louisiana. For more details, write: Jim Brown, Conference Coordinator, National Clearinghouse for Criminal Justice Planning and Architecture, 505 E. Green Street, Suite 200, Champaign, IL 61820.

• • •

April 20-23, 1976. National Conference on Pre-Trial Release and Diversion. International Hotel, New Orleans, Lousiana. For information and registration, contact: Conference Committee, National Assn. of Pre-Trial Service Agencies, 219 N Broad Street, Philadelphia, PA 19107.

T-Men Turn Attention to New Wave of Bombings

By HUGH WYATT

Item: May 24, 1973 A dozen cars of a Southern Pacific Railroad freight train, loaded with bombs, explode on a siding about 15 miles east of Benson, Arizona.

Item: August 6, 1974 Ricky Anthony Young, 22, is arrested on a charge that he had mailed a bomb to a judge in Yakima, Washington, with the intent to harm. The judge, who had once sentenced him to jail, died in an explosion June 3, 1974

Item: April 8, 1975 – Terrorist bombs rip a closely guarded Pacific Gas and Electric substation in San Jose, California for the second time in 12 days, temporarily cutting service to 22,000 homes and offices.

There was a time when bombings were confined to mostly large cities, such as Chicago, Atlanta, New York, San Francisco and Detroit. But bombings are now taking place in suburban areas and small towns throughout the United States.

The Treasury Department's Bureau of Alcohol, Tobacco and Firearms does not officially acknowledge the new spread of bombings. However, the agency is now giving increased emphasis and attention to the small town incidents.

Bureau agents were once called "T-men" or "Revenooers" when they chased moonshiners and white lightning runners back in the '20's and '30's. But since the appointment of Rex Davis as Bureau director three years ago, the agency has taken on a grimmer task. "Today, we're after bigger fish, not just the producers of illegal whiskey," Davis stated.

Those bigger fish include the makers of illicit explosives and the bombers who use them. While the Bureau provides bomb scene assistance to the big cities, it is the small towns that require the most help. Unlike the large urban centers, they do not have well-equipped local bomb units to deal with the problem.

A spokesman for the Bureau observed that "thousands of small towns use our personnel, expertise and equipment, often dispatched from Washington, to investigate bombings around the country."

During the first three months of 1975, sixteen persons were killed and 106 were injured by bombs. This was a substantial increase over the first quarter of 1974, Federal sources reported. The statistics show that three persons were killed and 42 were injured in the first three months of 1974.

While figures are not immediately available to indicate the percentage of incidents occurring in the smaller towns, some officials estimate that as much as 20% of the bombings now take place outside major metropolitan areas.

One agent of the Bureau, who declined to give his name, said that bombing has not only caught on in the smaller towns, "but there is growing evidence that radical activity involving the use of bombs may be on the return."

Donald Zimmerman, chief of intelligence of the Bureau in Washington, declined to comment on the scope of the problem: "I cannot say how many bombings we investigate, nor can I say that the incidents will continue to rise because during the past 10 years, the incidents have tended to fluctuate."

He did point out that his Bureau is well-trained and well-prepared to handle problems of bombings whether they be for criminal or political purposes.

"We are extremely proud of our agents," Zimmerman said, adding that he does not refer to AFT investigarors as "T-men."

Describing the role his agents play when they arrive at a bomb scene, Zimmerman underscored the separation between federal and state law enforcement agencies. "Our function varies, but I would never say that we take over investigations in small towns, or big towns, for that matter. Our main concern is to assist law enforcement officials in apprehending criminals."

$95M Ordered Impounded in Chicago Bias Case

Continued from Page 1

[the] dilemma."

Despite the procedual confusion, Judge Marshall's recent January 5 ruling was crystal clear. The major aspect of it stated: "In all of the circumstances we have concluded that a hiring standard of 16% females, 42% blacks and Spanish surnamed males and 42% other males should be imposed on the Chicago Police Department until further order of the court."

Judge Marshall continued the impoundment of $95 million from Chicago's revenue sharing allocation as an "economic sanction" to insure compliance with his directive.

With regard to the funds, Marshall accused city officials of maintaining a "pay now, performance later policy" and lamented that a "voluntary remedy" that had been directed in an earlier 1974 ruling had not been implemented. He went on to accuse Conlisk and present Police Superintendent James M. Rochford of ignoring an LEAA study that "showed severe racial imbalance in the [Chicago Police] Department."

At a recent news conference, Rochford sharply criticized the judge's decree. "We don't need a Federal Court to manage our Police Department without sharing any responsibility," he said. "If we permit that,I fear for the future of our republic. . ." The Superintendent also stated that the 64-page decision "appears hostile, reflects bias, contains contradictions, inaccuracies and was released at a strange time."

Rochford argued that Marshall's ruling pertaining to sexual discrimination was erroneous in stating that "it is still business as usual." He pointed out that "three women are serving as temporary sergeants,

Courtesy Graphic Arts Section, C.P.D.

Chicago Chief James M. Rochford, who has been accused of ignoring evidence of racial imbalance in his department.

with the knowledge of the Court; additionally, one is an acting sergeant, one is a division head, and one is a Deputy Chief."

The Superintendent also disputed Marshall's figures on the sworn minority strength of the force in the 1960's. He said the judge compared minority recruit groups for that decade with the force's present minority membership "thereby implying that ther are fewer minority sworn members now than in the 1960's."

Rochford called the judge's imposition of a minority hiring quora "most bitterly disappointing," claiming that for the past two years his department utilized experts in personnel selection and equal employment opportunity. "The City of Chicago has made trememdous progress in correcting conditions that appear to be unjust," he said.

Renault A. Robinson, who initiated the Chicago suit, called Rochford's comment on the department s racial progress "just a self-serving statement. It isn't true," he said. "Whatever way he interprets progress has no bearing because we prevailed in Court."

In 1973, Robinson completed a 16-page monograph for the Afro-American Patrolmen's League which discussed, among other topics, proposed changes in Chicago police hiring. "At all times primary consideration should be given to employing the best qualified candidate available," he wrote. "However, ethnicity plays a role in qualifying the candidate for police service."

If Chicago officials had taken heed of Robinson's paper, they might not be involved in their present conflict. However,

Continued on Page 16

LAW ENFORCEMENT NEWS

Law Enforcement News is published monthly on the 15th day of the month by L.E.N., Inc. in cooperation with the Criminal Justice Center of John Jay College of Criminal Justice, 444 West 56th Street, New York, NY 10019. Subscription rates: $5.00 per year (10 issues). Advertising rates on request.

Editor . . . . . Peter Dodenhoff
Managing Editor . . . . . Michael Balton
Associate Editors. . . . . Dorothy Bracey
Karen Kaplowitz
Joseph Peterson
John Slead
Circulation. . . . . Claire Villarreal
Subscriptions . . . . . James Tozzo
Advertising. . . . . Arthur Portnow
Photography. . . . . Richard Mugno
Publisher . . . . . Richard Ward

Correspondents: Dave Baxter (Missouri), Ken Braunslein (Nevada) Don Dahlstrom (Michigan), Gary Denise (California), George Felkenes (Alabama), Dorothy Guyot (New Jersey), Preston Horstman (Maryland), Art Kingsbury (Michigan), William Mathias (South Carolina), Lillian Reilly (New Jersey), Barbara Sacks (New Jersey), Joe Schott (Texas), Darrel Stephens (Missouri), Tom Twyford (New York), Tom Ward (New York).

Law Enforcement Seen Suffering as Dissension Rips N.C. Police

Three North Carolina police departments are suffering from the effects of wage disputes and organizational morale problems.

A private study ordered by the Raleigh, N.C. City Council has concluded that that city's police department is so torn with dissension and petty politics that there has been a "stagnation" of law enforcement in the city. Release of the report touched-off wage-motivated job action by the Raleigh Police Officers Association.

A group of policemen in Fayetteville, N.C. has voted to join the American Federation of State and County Municipal Employees after the city council failed to meet their wage demands.

A Statesville, N.C. policeman has recently resigned from the force to take another job at higher pay. Several of his fellow officers have threatened to do the same by late June unless their requests for more pay and benefits are met.

The Raleigh study, released last month, recommends sweeping changes in the police department, including considerable reorganization.

The 120 page report produced by a Florida consulting firm characterized Raleigh Police Chief Robert E. Goodwin as a poor leader. It said that top department officers were so suspicious of one another that "there is a complete lack of trust," and reported that departmental problems stem from "personality differences, power pockets and procrastination."

Chief Goodwin commented on the report saying, "I, and the majors in charge of each division, want to positively reassure the public that there will be a unified command of this Department."

The report pointed out a morale problem saying that many lieutenants and sergeants "are as openly hostile to the department as are the dissident elements" among younger officers.

"In the absence of strong leadership," many of the rank and file members of the force have rebelled against the department's top officers, the report said. "The clearly insubordinate and deviant behavior of members of this [group]. . . in retrospect was predictable. Desperate men are prone to desperate recourse."

The report cited the attitude of former city manager William H. Carper and the illness of past Police Chief Thomas W. Davis as two of the major contributing factors for departmental problems. Describing Carper as a man "by his own admission. . . more comfortable in another time," the study stated that he was not open to change.

The study contends that former chief Davis' failing health produced a situation in which he "was chief in name only" for the last three years of his administration. During that time three majors including Goodwin were actually running the department, according to the report. The study states that this period provided enough time to permit the creation of "three power cells" within the department, making "fractionalization of the department inevitable."

Besides organizational changes, the study recommended a 7.5 percent increase in salary for the officers. When City Manager L.P. Zachary offered only a 3.5 percent raise which stipulated a reduction in police car accidents, the Raleigh Police Officers Association balked. The officers demanded a ten percent salary boost along with the resignation of Chief Goodwin. Zachary removed his order for less patrol car mishaps, but not before the RPOA staged a work slowdown, picketed City Hall and staged large-scale sick calls.

A meeting between city officials and RPOA leaders has yet to take place. Zachary said it was up to the Association to request the session, but the officers seem to be taking a wait and see attitude. RPOA spokesman Thomas R. Beliveau said, "The men have to be shown that the city is willing to take the first step. We've shown good faith for two years. Now they have the ball."

An increase in wages is at the heart of the Fayetteville law enforcement problem. The Police Officers Benevolent society of that city last month voted to affliate itself with the AFL-CIO.

The state head of the AFL-CIO, Wilbur Hobby, told the Fayetteville BOP that he could promise no miracles but said union affiliation could give them a voice in state and local governmental affairs through the actions of his national union.

Hobby's reluctance to offer more direct action is understandable because North Carolina state law prohibits municipalities from negotiating directly with unions and prohibits municipal unions from striking.

Fifty of Fayetteville's 135 policemen belong to the BOP society. Twenty-four of of the 25 members present at the meeting voted to unionize the day after the city council failed to meet their wage demands. The council had instead passed a resolution to give all city employees making less than $9,000 a year a three percent pay raise.

Pay and benefit increases are also the major factors in Statesville's police problems. The city council there approved a five percent wage boost for city officials last month. It was 20 percent under the sum that the policemen wanted.

Two-year veteran Robert Watson resigned the day after the council vote, and Sgt. S.K. Moore, spokesman for the policemen, said he and others will also quit unless their requests are met in a new budget which will go into effect July 1.

Moore did not threaten to initiate any job action but said that the officers would continue to press their demands. Statesville Police Chief J.D. Myers said he does not expect wholesale resignations, even though further pay raises are not possible until July. "I'm particularly pleased with their attitude," Myers said recently. "They are badly dissappointed but they are dedicated and professional enough to know that they've got to hang in there until budget time."

NewsBriefs. . .NewsBriefs. . .

Consumer Safety Panel Plans Continued Study of Stun-Gun

Government safety officials plan to continue studying the injury-causing capability of the "Public Defender" stun gun, which temporarily paralyzes its victims with electrically charged darts. Officers of the Consumer Product Safety Commission recently met with the manufacturer of the weapon, Taser Systems of Los Angeles, to acquire technical information on the company's human testing methods.

"We have reached no conclusion yet," said Carl Blechschmidt, director of the commission's Office of Product Defect Identification. "We'll have to sit back and look at it in more detail."

He said the meeting was prompted by injury reports submitted to the commission, many of which dealt with misuse of the gun in robberies.

Taser president John H. Cover said he has received reports that the weapon has been used at least 20 times, "one-half in self-defense and one-half by crooks."

Various rulings have been given on the legality of the Taser. The Bureau of Alcohol, Tobacco and Firearms has decided that it is not covered by the Federal Gun Control Act of 1968. In California, however, it is termed a gun and must be registered and bear a serial number. Both Canada and New York City have ruled that the stun gun is a firearm, and carrying it may be a crime.

• • •

Security Help for Elderly Given by South Bend Police

Senior citizens in South Bend, Indiana, whose incomes are too limited to allow for sufficient security in their homes are getting an assist from the Crime Prevention Unit of the police department there. With the help of funds from the Law Enforcement Assistance Administration, police are installing several hundred double cylinder dead bolt locks in the homes of the elderly.

Eligibility for the service is limited to elderly residents with limited savings and a yearly income of less than $5,000. A preliminary survey of the first 29 persons to have the locks installed showed that they felt a heightened sense of security in their homes, particularly during night hours.

• • •

Former Acting DEA Chief Dogin Takes Programming Post in N.Y.

Henry S. Dogin, who recently resigned as Acting Administrator of the troubled Drug Enforcement Administration, has joined the staff of New York's Division of Criminal Justice Services as head of the 91-member Office of Programming and Planning Assistance.

The recipient last year of the Attorney General's Award for Exceptional Service – the highest award of the Department of Justice – for his leadership efforts at DEA, Dogin assumed command on January 26 of the agency which will disburse almost $40 million in LEAA funds to crime control programs throughout the state during the fiscal year ending June 30, 1976.

DCJS Commissioner Frank J. Rogers, who worked with Dogin as a novice attorney in the New York County District Attorney's office in 1961, said Dogin's appointment to the OPPA vacancy was "more than a feather in the state's cap. It's the whole derned peacock."

• • •

Gain, Bond Named Police Chiefs In San Francisco and Houston

Charles R. Gain, former chief of police in Oakland, has been selected to head the police department in San Francisco, it was announced on January 12. The appointment marks the first time since 1911 that the city has gone outside its own department to choose a chief.

The selection of Gain, which met with a wave of negative reaction from police officers in San Francisco, was kept a tightly guarded secret until just a few minutes before Mayor George Moscone made the announcement in the crowded meeting room of the city Police Commission. It is believed by some that last August's police strike was the primary reason an outsider was chosen to head the department.

Gain, who previously served as undersheriff of San Francisco, succeeds former Chief Donald Scott.

In Houston, meanwhile, B.G. Bond, a captain in the Criminal Intelligence Division, was unanimously confirmed by the city council to become the new police chief there.

A 22-year veteran with a reputation for exceptional integrity, Bond takes command of a department tainted for the past year and a half by federal indictments and internal conflict. Bond's predecessor, Carrol Lynn, resigned as chief last summer in the wake of a controversy over his handling of an internal investigation into illegal police wiretapping.

• • •

American U. Plans Publication of New Victimology Journal

The Center for Administration of Justice at American University has announced the establishment of Victimology, an international journal designed to provide "a forum for the exchange of theories, concepts, methodologies and practices concerning the victim."

The multidisciplinary publication focuses on the mechanics of victimization, its consequences, society's reaction to it, and preventive, legislative and rehabilitative measures. The journal will include full-length articles, project and research notes, book reviews and announcements of conferences and seminars.

Further information about Victimology can be obtained from Dr. Emilio Viano, Center for the Administration of Justice, The American University, Washington, DC.

Abolition of Parole In Federal Prisons Is Urged by Levi

As "an important and necessary first step" toward criminal justice reform, Attorney General Edward H. Levi has proposed the abolition of the Federal parole system and the imprisonment of convicted criminals for their full sentences.

The Attorney General said his plan, which he outlined in a speech before a Wisconsin state conference on crime control, is in line with President Ford's call for legislation to establish mandatory minimum sentences for certain violent crimes and recidivists. After describing his plan, Levi said "It may be time to consider an even more sweeping restructuring of the sentencing system."

Recently, there have been suggestions to eliminate the Federal parole system as it is presently set up, and to allow trial court judges to fix the precise sentence a defendant would be required to serve. The judge would be directed to make his determination within a set of guidelines which would be drawn up by a permanent Federal sentencing commission.

Levi's plan would allow a reduction of sentences only for good behavior. He said that the present system, in which most prisoners become eligible for parole after one-third or less of their minimum sentences, "may create a lack of credibility in sentencing which undermines the deterrent effect of criminal law and adds to the sense of unfairness."

$102M Budget Cut Urged by Ford for LEAA

Continued from Page 1

hy Congress, LEAA will receive $707,944,000 for that period, down from an estimated $810,677,000 for the current fiscal year. The largest budgetary cuts will be imposed on block and discretionary grants, the Law Enforcement Education Program and new Juvenile Justice Act spending.

At a press conference on the new budget, Glen E. Pommerening, assistant attorney general for administration, said the LEAA decrease was decided upon in joint consultations between the Justice Department, LEAA and the Office of Management and Budget. However, his replies seemed to imply that OMB, the President's budget control agency, was the main force behind the budget cuts.

The LEAA fund decreases include: a $59.7 million cut in the amount for Part C block grants, a $24.7 drop for discretionary grant programs, elimination of LEEP, and a decrease of $29.3 million for new programs under the Juvenile Justice and Delinquency Act of 1974.

Deputy Attorney General Tyler explained that while LEEP would be phased out, $40 million allocated for a transition period will "insure full support for LEEP participants in the 1976-1977 academic year."

The Ford Administration attempted to scrap LEEP in last year's budget request, but Congress voted $40 million for the program from unspent funds reprogrammed from other LEAA functions.

The cut in Juvenile Justice Act programs is an attempt by the Administration to hold the program to a minimum. By shifting $15 million from last year's budget and adding $10 million in new money, Juvenile Justice Act programs would receive $25 million for fiscal year 1977. Pommerening noted that the program is to be held down so that its new administrator, Milton Luger, has sufficient time to prepare viable and logical programs for use of the monies.

The FBI will experience a 3.1 percent reduction in funds, under the proposed budget. Bureau training of state and local police would be hard hit, sustaining a $7.9 million drop. The blow will be softened, however, by a new requirement that state and local agencies absorb 50 percent of the cost of training their officers in FBI programs.

The Bureau will shift its investigative efforts as part of the budget plan, according to Assistant FBI Director Eugene Walsh. He revealed that emphasis will be directed to crimes which have a greater impact on society as a whole, specifically, white collar and orgainzed crime as well as bank robberies. Walsh contends that this "realistic approach" will concentrate on "quality over quantity" in FBI investigations.

The Drug Enforcement Agency will also shift its investigative activity with the aid of a requested budgetary increase of $6.3 million. Commenting on the 4.1 percent rise, Tyler said that in fiscal year 1977, "high-level conspiracy investigations will be stressed in accordance with the President's drug enforcement strategy and the Domestic Council's 'White Paper' on drug abuse." This indicates that the DEA will pass-up small-scale marijuana prosecutions.

In his State of the Union Address, Ford cited the reluctance of judges to send criminals to prison because of inadequate facilities. To correct this, his new budget proposes a 28.4 percent increase in funding to the Federal Bureau of Prisons. The boost would expland the Bureau's budget for fiscal year 1977 to $304.1 million. Tyler echoed the President in explaining that the large increase was to meet "the need for improved corrections programs and facilities for federal prisoners and initiation of a federal leadership role to improve corrections at all levels of government."

The largest increase in the proposed BOP budget is a 370.5 percent jump in funding for the construction of new facilities and the renovation of existing prisons. Under the budget proposals, new institutions would be built in Detroit; Phoenix; Otisville, New York, and Talladega, Alaama. In addition, $13.2 million would be spent for modernization and repair of existing institutions.

For the first time, the National Institute of Corrections has been included in the BOP budget. The former LEAA administered ageney will channel grants to universities, correctional agencies, and nonprofit agencies for training, technical assistance, research and evaluation.

President Ford mentioned the need to speed Federal justice in his address to the joint session of Congress. His new budget attempts to accomplish this by granting additional funds for the Justice Department. Its Criminal Division would receive a 1.3 percent budget hike, from $18.8 million this year to 19.1 million in fiscal year 1977. Tyler said the additional funds would allow the division to catch-up with its heavier workload, "restore the balance" between civil and criminal case processing, and intensify the drive against white collar crime.

Two other Justice Department divisions will receive budget boosts. The Office of Policy and Planning would gain ten positions as well as a 44.3 percent budget increase to strengthen development of criminal justice policy. The U.S Board of Parole's budget would rise from $3.4 million this year to $3.7 million for fiscal year 1977. According to Tyler, the additional monies are to cope with the "inordinate increase" in parole hearings and to assure that the applicants receive proper due process protections.

THE ACADEMY OF CRIMINAL JUSTICE SCIENCES
Announces its:
ANNUAL MEETING

200 YEARS OF CRIMINAL JUSTICE

- *Date: March 24-26*
- *Place: Dallas, Texas*
- *Guest Speaker: FBI Director Clarence Kelley*
- *Registration Fee: $25.00*

The agenda will include an overview of criminal justice in the U.S , including an analysis of police and corrections. There will be an examination of present trends and an attempt ot identify future problems and developments in the field. Known practitioners and scholars will conduct the sessions. There will also be a formal debate on professionalization versus unionization. Other topics will include:

- *A history of criminal justice education.*
- *The relationship between criminal justice and politics.*
- *Research needs for the future.*
- *Citizen participation in the justice system.*
- *Corrections — past, present, and future.*
- *The impact of literature on public attitudes toward crime.*

The $25 registration fee includes one luncheon. Other meals and lodging are not included. Early registration is encouraged. For lodging, contact the Royal Coach Hotel, 3800 West Northwest Highway, Dallas, Texas 75220. Phone, (214) 357-9561, or toll free: 1-800-228-9494. Ask for ACJS room rate of $20.00.

For details contact:
Richter H. Moore or Kathy Locke
Appalachian State University
Department of Political Science
Boone, North Carolina 28608
(704) 262-3085

Grant to Study Crime's Link To Stability of Neighborhoods

A New York analysis firm was awarded an LEAA grant last month to determine why residential instability is closely linked to urban crime.

Past research indicates that a significant number of a neighborhood's criminal offenses are related to such instability, according to LEAA Administrator Richard W. Velde.

He said that relatively stable neighborhoods have far lower crime rates than those in which residents move in and out frequently.

The Institute for Community Design Analysis will use the $650,072 grant to study 24 low-to-moderate-income housing communities in Newark, St. Louis, and San Francisco. Headed by architect Oscar Newman, the firm specializes in crime prevention through architectual design.

Newman's research team will analyze data on housing sites, socio-ecomonic characteristics of residents, community and management policies, and law enforcement practices in regard to their impact on crime and stability.

The study will cover the years 1971 through 1976. Turnover and vacancy rates for that period will he measured to determine the percentage of residents who have lived in the communities for less than two years. Communities with a 20 percent rate of transiency are considered stable, while a 25 to 35 percent rate marks the threshold of instability.

The grant was provided by LEAA's National Institute of Law Enforcement and Criminal Justice. Institute Director Gerald M. Caplan said the new study will build upon past research funded in Boston by the Institute and by the U.S. Department of Housing and Urban Development.

The previous study was headed by Thomas A. Repetto, a former commander of detectives in Chicago and was conducted by the Urban Systems Research and Engineering, Inc. of Cambridge, Massachusetts.

Concepts in Criminal Investigation

Administering the Investigative Function: Supervising Personnel

By RICHARD H. WARD

(This is the fifth in a series of articles on the concepts and theories of criminal investigation. The author is a former detective in the New York City Police Department and author of Introduction to Criminal Investigation.)

• • •

Unlike many other aspects of police work, supervision of investigators involves more than making observations and reviewing reports. The first line supervisor must develop the ability to recognize an investigator's failings as well as his assets and must make every effort to bring a particular individual's expertise to bear on those cases where he or she is most likely to be successful. Despite a feeling among most investigators that they are capable of handling virtually any kind of case, there is general agreement among many police administrators that specialization results in increased effectiveness. There is no evidence which supports the specialist theory, and in later articles this subject will be explored in more depth.

For the present we shall assume that there is a body of knowledge concerning investigation, that expertise in a particular area will increase the probability of case solutions, and that specialization is more efficient given adequate resources.

Utilizing Personnel

Supervision of personnel involves not only an understanding of the investigative function, but moreso the ability to utilize personnel effectively. The supervisor should know which investigators are adept at interviewing and interrogation, which are capable of maintaining surveillance covertly, which have the ability to "read" crime scenes, and which have the patience to sift through records, reports and other materials looking for leads.

Because the first-line supervisor works closely with investigators there is usually a close relationship, and esprit de corps is common in most investigative units. While this is commendable it can also be a source of concern, for too often the investigator places the needs of the organization below those of the investigative unit. All too frequently the supervisor is viewed as "one of the boys," and the ability to supervise and to motivate suffers. The supervisor must walk a thin line, recognizing that his allegiance must be to the goals of the agency but aware also that acceptance will depend upon his ability to gain the confidence of subordinates. While the concept is simple, in actual practice it is difficult to maintain this careful balance.

Functional Aspects of Supervision

Supervision of investigative personnel should be related to the unit's function and workload. In some departments, supervisory personnel are employed as investigators, and an individual must hold the rank of sergeant or lieutenant to be an investigator. In other departments an individual assigned to an investigative unit receives extra pay and may be promoted as detectives, usually without supervisory responsibility. There is no clear evidence that extra pay results in better investigations, and many police administrators maintain that investigative work is another assignment, carrying its own rewards, and that there is no need for extra pay.

Whatever the particular approach, it is generally accepted that investigators are generally highly motivated and view themselves as part of an elite unit. Most investigative supervisors support this position. Unfortunately, such a position frequently leads to friction and to a lack of cooperation with other units, particularly the patrol force. The supervisor has a primary responsibility to reduce this friction and should constantly reinforce cooperative relationships. All too often the supervisor will strive to generate favorable publicity for his unit, forgetting or choosing to ignore contributions made by other units.

Attempts have been made to reduce this friction in several departments by assigning investigators to teams. The Rochester, Los Angeles and Cincinnati Police Departments currently employ investigators as part of their team policing approach. The practice has proven favorable in these departments, according to observers, and Rochester reports significant increases in crime clearances. The supervisory relationship in the team policing model is likely to be different than the traditional squad model and usually involves the patrol supervisor in the investigative process. It is important to recognize that the traditional approach may not be the most effective.

Investigative Reports

Another important aspect of the supervisor's role in the investigative process, and one which is frequently ignored, is the review of investigative reports. The investigative report is a record of the investigation and can prove invaluable in the complex investigation when prepared properly. Unfortunately, many investigative reports leave much to be desired and, as a result, cases go unsolved.

The investigative supervisor is responsible for ensuring that reports are accurate and detailed and that they follow a standard format. Case review and the ability to handle large amounts of data are facilitated when a standard format is used. A sloppy report usually indicates a sloppy investigation.

The importance of adequate report writing cannot be overstated. The accuracy of reports will depend largely upon the demands of the supervisor.

Next month's column will deal with the use of reports in crime analysis.

Homicide and the Prosecuting Attorney: Getting the Job Done

By GEORGE D. KENT

(George Kent has been a judge of the Common Pleas Court of Detroit since 1962. He has also served as chief of the Wayne County (Mich.) prosecutor's homicide division.

The work of the prosecuting attorney in a homicide case may be divided into two main categories. (1) the accumulation of evidence or the marshalling of proofs, and (2) the trial of the defendant.

The accumulation of the evidence is of the essence in any case. Forensics, ingenuity, tactics, manner of presentation, knowledge of the law, familiarity with proper trial techniques, while extremely helpful in the trial of a case, and in influencing the verdict of the jury, can in no wise be substituted for evidence or specific irrefutable proof. It therefore becomes imperarive that the prosecuting attorney make himself familiar with each and every aspect of the case. This familiarity includes intensive study of the medical reports, the scientific laboratory reports, the statements of witnesses, the statement, if any, of the defendant, background information on the deceased and the defendant, as well as a thorough knowledge of the facts surrounding the actual fatality, and a thorough knowledge of the applicable laws and the rules of evidence for the proper presentation in a court of law.

It is to be remembered that the prosecuting attorney is not a police officer or a detective, and should never try to assume this role, nor to supplant the thoroughly extensive investigation of the competent homicide officer. The prosecuting attorney's duties are of a wholly different nature; one that he is more qualified to perform than the homicide officers, whose duties are limited to that of investigation.

The prosecuting attorney ultimately is charged with the responsibility of presenting the findings of the homicide officers investigation to a court of law. It well behooves the prosecuting attorney to therefore become familar with every facet of the investigation made by the homicide officers, and not to hesitate to order more if it may be required on any phase. The cardinal requisite of the prosecuting attorney may be said to be the coordinating of the efforts of all personnel and investigative agencies engaged in a homicide case.

Too lightly regarded is the work of the medical examiner. The medical examiner is one of the key men in the investigation of homicide cases. The medical aspects may be crucial in the proper prepatation of a homicide case for trial.

The postmottem examination in cases of suspected homicide is an important application of medico-legal science. A proper postmortem performance is of paramount concern to all agencies responsible for law enforcement and the effective administration of justice.

It is a requirement of the law that all sudden, suspicious, unusual, violent death, and deaths occuring without a physician in attendance be reported to the medical examiner's office. Although the death may appear to be entirely unsuspicious, it is only by the investigation of this great variety of deaths, that unsuspected homicides may be discovered. If unsuspected homicides are to be discovered, all sudden and unusual deaths should be investigated by careful routine postmortem examinarion, including a complete and accurate autopsy on the body of the deceased performed by a qualified pathologist working in the official capacity of a medical examiner.

Some homicidal deaths may have escaped detection because of inadequate examinations, and this lack of detailed medical information will seriously handicap the work of the law enforcement agencies by depriving them of valuable clues, hampering the attempts to solve the crime, and rendering the prosecuting attorney at a serious disadvantage for the medical testimony necessary to the proper establishmenr of the corpus delicti at the time of trial.

In homicidal cases, the postmortem examination should properly begin with a careful study by the medical examiner of the undisturbed body at the place of its discovery. This place may or may not be the place where death occurred, and it is not necessarily the place where the violence which was the cause of death had been inflicted.

It is of extreme importance to learn the full and complete circumstances surrounding a death. Sometimes a superficial examination will establish the nature of the homicide, however, there are certain types of homicide which may readily escape suspicion and detection unless a careful study of the undisturbed body is made at the scene and the circumstances surrounding the case be looked into by the homicide detectives in conjunction with the medical examiner. Because an apparently non-suspicious death may in fact be homicidal, the medical examiner should be on the alert in every investigation, and the body and its surroundings ought not be disturbed until after the medical examiner has arrived at the scene and, in cooperation with the Homicide Bureau detectives, has completed a preliminary investigation.

Although the medical examiner's investigation is conducted independently of other law enforcement agencies, and his functions do not fall undet the review or jurisdiction of the police department or prosecuting attorney, his cooperation with these departments is necessary and desirable. Many useful suggestions as to the probable nature of the case may be reveled by the medical examiner at the scene and thereafter.

The medical examiner's office has been found to be entirely unbiased in opinions which are justified by medical findings. The examiner is not a detective or prosecuting attorney and if his investigation discloses no medical indications of homicidal violence, he will not hesitate to give such an opinion and be prepared to firmly and scientifically uphold it.

Upon arrival at scene, the medical examinet should note and record the time of notification, time of arrival and his first observations together with the homicide officers, inquiry should be made and recorded as to how, when, and by whom the body was discovered, the circumstances under which the body was found, by whom and when the deceased was last seen alive, whether the body had been moved from its original position after found, and what was the original condition and position of the deceased before being moved when first seen.

Before the handling of the body and before any of the surroundings at the scene have been disturbed, it is recommended that as many photographs be taken as are necessary to show all the derails. It may be that the pictures are sometimes too gruesome and are not permitted to be admitted into evidence at the trial, but are very valuable in the investigation and may be used to refute a witness's statement or to refresh a witness's recollection as to the conditions that existed at that time.

It is the responsibiliry of the medical examiner to preserve all objects found on or in the body of the deceased, or in or on his clothing, which may or may not have anything to do with the cause of death, or which may furnish useful clues in the apprehension of the assailant. These objects should be carefully preserved in marked and labeled containers and given to the homicide officers for subsequent further study and evaluation. These objects may then be taken by the homicide officers to the scientific laboratories for whatever further tests or examinations may be indicated. Care should be taken by the conveying officer in the handling and collecting of these objects so as not to mar existing fingerprints or to add his own. He should be sure that his name appears on the evidence property tag for later identification.

The autopsy should be performed as promptly as possible, preferably by the medical examiner who saw the body at the scene where it was found. If at all possible, the autopsy should be attended and witnessed by another medical examiner, and this fact should be noted in the report. It is highly desirable to have one of the homicide officers in attendance at the postmortem for a discussion of any unusual matter that the medical examiner deems worthy of note.

When the identity of the deceased is established through his relatives or friends, it is prefetable that such identification be made by persons who will be available to testify, should the case come to trial. Identification of the deceased by persons living in distant cities may create difficulties for the prosecuting atrorney should he find it necessary to call them to establish the corpus delicti.

Even the most minute, and perhaps seemingly insignificant wounds on the body of the deceased should be noted as to exact location, size, character, and probable age, and the attention of the homicide officer presenr at the postmortem directed to them. These seemingly insignificant wounds may become extremely revealing on later evaluation, even though the cause of death is more easily and directly attributed to the apparent wounds. It is known that fatal woulds of the skull and brain, such as the small inconspicuous appearance left by an ice-pick stab wound of the scalp which is concealed by the hair, or even blunt-force blows to the head can occur with little or no external evidence of trauma or injury. Injuries to the spinal cord, or the application of a kick or blow to the abdomen, without any visible apparent wounds may sometimes be the cause of death.

The autopsy in a homicide case involves a great deal more than the mere determination of the cause of death. The medical examiner should be prepared, along with the prosecuting attorney, to anticipate questions which may arise upon trial by an astute and clever defense counsel in relationship to the entire autopsy.

From studying with the medical examiner the results of his postmortem examination and the circumstances surrounding the fatality, the prosecuting attorney should be ahle to translate the medical aspects of the case from the medical verbiage into the sort of language that is more readily understandable by the ordinary person who is untrained in the medical-legal phraseology generally used by professional people.

"It would be a worthwhile innovation to arrange a psychological examination of every defendant in a homicide case as soon as practical."

The prosecutor should be able to clarify with reasonable certainty the type of homicide, the cause of death, the location of the fatal wound, other significant woulds, entrance points of projectiles, direction and depth of penetration, trajectory or path of projectiles, condition of sobriety (alcoholic content), size and weight, and in cases of non-violent deaths the pathological and toxicological examinations upon which the medical examiner bases his opinion as to the cause of death.

While this is not now done, experience has indicated that it would be a worthwhile innovation to arrange a psychological examination of every defendant in a homicide case as soon as practical after his being taken into custody, so as to negate the possibility of malingering. This would also provide excellent rebutral, where a plea of insanity or irresistible impulse is entered for the defendant on trial.

In addition to the medical aspects, the prosecuting attorney must work in conjunction with, and coordinate the efforts of the homicide officers. The homicide officers are skilled investigators, and are the specialists that are on the job as soon as a homicide has been reported.

The main tasks of the homicide officers are: (1) the apprehension of the defendant (2) the accumulation of evidence that will indicate his guilt or innocence (3) the gathering of background information concerning all aspects of the crime. This background information may explain motivations, or serve as leads for new avenues of inquiry, and should include facts about the deceased, his associates, his activities, his mode of living, and, if there is already a suspected defendant, the same about him, and the possible relationships in business or social life that may have existed between them.

Most frequently precinct parrolmen are the first officers to arrive at the scene. Much is to be desired in the adequacy of training these officers as to the things to be done when they are first at the scene of a homicide. It is often significant that much of the physical evidence at the scene is not properly evaluated until some time later. Proper preparation in the marshalling of proofs indicate the desirability of studying the initial reports and con-

Continued on Page 7

"There is danger for the prosecuting attorney to have oral conversations with the defendant before or after the taking of a formal statement amounting to an admission or confession. The defendant may claim that promises were made."

Continued from Page 6

ferring with the first officers at the scene.

If the victim is still living, it is of course the first duty of the first police officer at the scene, to arrange immediately for competent medical aid to be given.

Where there are witnesses present, their identity should be determined and they should be detained so that a detailed statement may be taken. Even though a witness protests that he did not see all of the affray and that he will be of no help, the res gestae rules make it imperative that the officers take his name and address. It is the duty of the homicide officers to call all witnesses to the prosecuting attorney's attention, whether their testimony will help or hurt the people's case, so that their names may be placed upon the list of witnesses on the information.

The first officer at the scene should summon aid through his superior officers, who will in turn notify the Homicide Bureau. While awaiting aid, the first officer should prevent all unauthorized persons from touching or otherwise disturbing or destroying or removing any physical evidence at the scene. Any and all physical evidence should properly be preserved on the assumption that each item may be a crucial one for the establishment of facts tending to prove guilt or innocence. The relative weight which should properly attach to any bit of evidence found at the scene cannot properly be ascertained immediately, and the full significance may not be fully appreciated until some time later during the preparation for trial.

The first officer should make a careful visual examination of the scene and at the first practical opportunity, notes should be made as to the time of arrival, the condition of the victim, any persons present, the objects of interest, etc. It is to be remembered that he may be called upon at some considerable time later to describe from the witness stand the details of what he observed at the scene, including any physical evidence found.

The prosecuting attorney should review with the homicide officers the progress of the case. Details should be checked. As soon as practically convenient, the prosecutor should visit the scene of the crime, together with the homicide officers.

It would be advisable that a complete set of photographs be made of the scene, including the victim's body, before the body is moved or disturbed in any way. The photographs should show cuts, bruises, entrance points of projectiles, any weapons of offense or defense found at the scene, and panoramic views of the locale from different angles.

The photographs of the victim at the scene, if any were taken, should be looked at and coordinated with a scale drawing of the locus.

Exhibits should be collected and identified, and the proper witnesses be ascertained to assure their admissibility into evidence at the trial. If exhibits are of a technical nature, it is important that the prosecuting attorney go over the subject with the expert or experts. It may become important to know the expert himself, and his limitations, as well as the subject matter upon which he may be called to give an advisory opinion. Many cases have turned upon expert testimony alone.

Every statement, both informal to homicide officers and formal to an assistant porsecuting attorney, should be read, and, if possible, a personal examination of every material witness who might be able to give material evidence or valuable information should be made.

The prosecuring attorney should be patiently exhaustive in his preparatory oral examination of eye wirnesses, before a formal starement is taken. To secure the confidence of the witness and help him relax, questions may be directed toward his presence ar the scene, his acquaintance with the deceased or the defendant, his activities, his conflicts with the law, if any, his physical condition as to vision and hearing, all this aids in determining whether he has the ability to relate facrs audibly and correctly. This serves as an aid in enabling the prosecuting attorney's evaluation in his worth as a wirness, and determining how much weight and reliance to place upon his testimony.

Once a witness has made an honest formal statement, if he should attempt to repudiate it later, his memory may be refreshed as to the starement previously made, and , if necessary, it will be of incalculable value for cross examination.

There is danger for the prosecuting attorney to have oral conversations with the defendant before or after the taking of a formal statement amounting to an admission against interest or confession. The defendant may claim that promises were made to him hy the prosecutor in exchange for his statement, that the statement does not reflect all that was talked about, that there were other things said that do not appear in the statement, and, in short, leave an implication that the prosecuting attorney took unfair advantages of the defendant.

The prosecuting attorney should point out to the homicide officers the weak spots in the case, and encourage an exhaustion of all leads in an effort to reinforce them. It is important that all essential aspects of the testimony be corroborated, if possible. The corroboration from different tangents by diverse types of evidence is quite forceful, and may be accomplished sometimes only hy a more intensive investigation.

It is of absolute significance that all material witnesses to every aspect of the case be available to give testimony. The witnesses are the prosecuting artorney's weapons in court. He must take every adequate precaution to assure their availability and presence in court at the time of trial. The list of witnesses should be gone over carefully with the homicide officers and the testimony that each is expected to give should be classified according to type.

A brief statement of facts should be prepared, together with the laws on any anticipated legal problems that may arise during the trial.

Generally, the type of homicide will indicate the type of defense. If there are any special defenses they will be pleaded at the pre-trial hearing. The prosecuting attorney should be prepared to anticipate the defense and assemble the evidence to meet it, and/or refute it.

Though proof of a motive is nor legally necessary, the defense will generally argue in derogation of rhe people's case thar no motive has been proved nor even shown. The initial investigation must be based upon a theorized motive, and the pre-trial investigation cannot be expected to proceed in an orderly or intelligent manner unless the prosecuting attorney has established in his own mind a motive for the crime. It is always helpful to have a theory as to the motivation, so as to clarify the organization of the evidence and the ultimate picture you wish to convey at the trial.

By the trial date the prosecuting attorney should know all about the case. On the presentation to the jury he should assume that the jurors know nothing about the facts.

The prosecuting attorney should be prepared to present his case in a smooth, orderly manner, attempting to convince the jurors by evidence that is directed primarily to the intellect. The proper accumulation and organization of evidence and testimony produces a complete and convincing picture, and, when developed in a logical sequence, may be presented in such a manner that attentive jurors will more readily grasp the pertinent facts. At the completion of such a presentation, the jurors should have a vivid picture of the happening of the events and the part played by each of the participants.

This, we hope, will enable justice to more properly triumph.

"The pre-trial investigation cannot proceed in an orderly or intelligent manner unless the prosecuting attorney has established in his own mind a motive for the crime."

Reprinted with permission from — The Michigan Police Officer, Summer, 1975.

INTERNATIONAL CRIMINAL JUSTICE SEMINAR

On Friday, May 14, 1976 the Criminal Justice Center of John Jay College of Criminal Justice will host an International Criminal Justice Seminar. This all-day conference will be held in the College's North Hall, 445 West 59th Street, New York City, from 9 AM to 5 PM. For further information contact Marie Rosen at (212) 489-3967.

The Seminar will feature speakers from Great Britian, France, and the Republic of Ireland, who will lecture on specific topics of interest to criminal justice professionals. The program is as follows:

POLICE RECRUITING & TRAINING
H.V.D. Hallett
Assistant Chief Constable
Maidstone, Kent

POLICE COMMUNITY RELATIONS
David Powis
Deputy Assistant Commissioner
Metropolitan Police

THE POLICE SYSTEMS OF FRANCE
Lucien Durin
Former Deputy Director
National Police College, Lyon, France

POLICE ISSUES IN GREAT BRITAIN
Lawrence Byford
Chief Constable
Lincolnshire, England

THE POLICE ROLE IN THE REPUBLIC OF IRELAND
Sean Sheehan
Assistant Commissioner
Garda Siochana, Pheonix Park, Dublin

Please register the following individual for the International Criminal Justice Seminar.

The Registration Fee of $20 includes lunch. Please make your check payable to: Criminal Justice Center.

Payment enclosed _____ I will pay at the door _____

Name _____ Title _____

Agency _____

Address _____ Zip _____

Return to:
Criminal Justice Center
John Jay College of Criminal Justice
444 West 56th Street
New York, New York 10019
ATT. Marie Rosen, Rm. 6104

Police Training in Great Britain

An Interview With Superintendent Keith Hunter

(Superintendent Keith E. Hunter completed his military service in the Scots Guards Regiment in 1954 and joined the 3000-man West Riding County Police Department, in the industrial north of England. He served as a uniformed police officer until 1958, then did four years as an instructor at a District Police Training course. He returned ro uniform patrol in 1962, attended a Detective Training Course, and was promoted to Sergeant to take charge of a county section station in 1964. In 1966, while serving at the West Yorkshire County Police Department's own Training Academy as an instructor on senior constables' and sergeants' courses, he was promoted on transfer to the Essex County Police – a force of 2,400 officers in southern England. In Essex County he rose from the rank of Inspector to Superintendent. Holder of a B.A degree in Modern History and a graduate of the British National Police College, Superintendent Hunter is presently Commandant of a District Police Training Center in County Kent.)

• • •

LEN What is the status of police rraining in England and Wales?

HUNTER The training of recruit-probationary constables from the forty-three separate police forces of England and Wales is undertaken at the national level, with a uniform syllabus of instruction, within a number of Regional Training Centres. The Higher Training of senior officers from those forces is also centralized and is undertaken by the Police College in a stately country mansion at Bramshill in Hampshire. All other forms of training are carried on by individual force training departments, some of which are attended by officers from other forces.

LEN Before we discuss training it would be of interest to understand something about the organization of the police service. The forty-three separate police forces you mention represent considerable consolidation, amalgamation to use your term. Can you explain how this was achieved?

HUNTER: Since the late 19th century, there has been a gradual reduction in the number of police forces from 239 to 47. This was first achieved by Acts of Parliament restricting the grant of charters of incorporation to new boroughs and abolishing separate police forces for towns with less than 10,000 population. Despite strong local resistance, an Act of 1946 empowered the Home Secretary to put compulsory consolidation schemes to Parliament and 45 small borough forces (one with only 15 men) were merged into the counties. The more recent concept of amalgamation, which allowed elected representatives from independent boroughs, cities and counties to constitute "Joint Police Authorities" for the policing of their areas by "Joint Constabularies, " with each constituent council providing an agreed share of toral costs, led in the late 1960's to a further reduction of police forces in England and Wales from over 120 to 48. Thus every town which had at some time in its history its own police department is now policed by a county or metropolitan force, maintained out of county taxes and with government aid by their police committees.

LEN: What role does the Home Office play in the policies of local police departments?

HUNTER: The influence of government, in the person of the Home Secretary backed by a staff becoming more expert in police affairs, passed from the benign to the active during two world wars. Exchequer grants were increased to 50 percent and the threat to withold grants became a powerful weapon of last resort – if seldom used

LEN: Then the Home Office provides 50 percent of the funding for police services?

HUNTER Yes

LEN: How are Constables represented in the British police service?

HUNTER Following the 1919 Police Strike, the Police Federation was formed. It is organized at local force/branch and National/conference and central committee levels, to represent ranks from Constable up to Chief Inspector in matters of welfare – including pay and pensions.

LEN: Who sets standards?

HUNTER: The Home Secretary is authorized by statute to make regulations standardizing pay, conditions of service and discipline in all forces. Thus the British police service has its own departmental rules, quite separate from civil service rules. The Home Secretary is also the final court of appeal in all disciplinary cases.

Superintendent Keith E. Hunter

LEN: With such strong central influence, what methods ensure against complete government control of the police?

HUNTER: The Police Act or 1964 instituted a system of checks and balances in police organization and administration. The Act charges counties to "maintain adequate and efficient" police forces for their areas, but gives to chief officers their "control and direction." A police committee's appointment of a chief officer is subject to Home Office approval (ensuring the legal requirement for a chief officer to have served as an officer of at least the rank of Inspector in another force) and a chief officer required to retire on grounds of inefficiency by his committee can appeal to the Home Secretary: a check against any partisan irregularity.

"The British chief officer of police is placed in a position of power involving a high degree of trust which he abuses at his peril. There are watchdogs all around."

The Act delegates to all chief officers the authority to appoint, promote, discipline and dismiss officers of subordinate ranks. A police committee is entitled to a report on any matter of policing connected with their funciton of maintaining efficient policing from their chief, but if such request concerns an individual case of law enforcement where accountability is seen to be to the courts of justice, the chief officer may refer the matter to the Home Secretary for his arbitration. This arrangement stems from traditional British jealousy of the separation of political and judicial (or quasi-judicial) powers, coupled with a more recent interpretation of the common law powers and duties of constables. The British chief officer of police is placed in a position of power involving a high degree of trust which he abuses at his peril. There are watchdogs all around, the most toothsome being those stern and independent gentlemen who constitute rhe British judiciary and jealously uphold the law.

LEN: With consolidation has come the concept of centralized training. Can you tell us a little about the range of training programs available?

HUNTER Few of the new county and metropolitan police forces of England and Wales have establishments of less than 1,500 officers, and every one has its own training department running continuation training for probationary constables. Many more have small, residential schools for cadet training, scenes of crime courses, senior constables' refresher courses, telecommunications training, promotion examination preparation courses and so on. A few highly resourceful forces of West Yorkshire and the West Midlands – provide sufficient places within their detective training academies for potential and senior detective officers from all other forces and from overseas forces. Few detectives in English and Welsh forces fail to attend the Junior Detective Training course of 10 weeks' duration at Hendon (London), Preston, Birmingham or Wakefield.

LEN: How abour traffic control?

HUNTER: Places for Traffic Patrol officers are available at various large county police force driving schools, on standard and advanced driving courses on which "the system" is taught and practised. This includes techniques of car control, involving advanced reading of road and traffic conditions and a spoken commentary by trainee drivers, pursuit driving and practice on skid pads. Courses are usually of four and six weeks' duration.

LEN: You mentioned cadet training. I assume these are what we term pre-service employees?

HUNTER: Yes, the training of police cadets is now highly organized and in most forces the accent is on education and community service, with a deliberate avoidance of vocational training before attestation [being sworn in]. Cadets usually spend a year in training, completing cadet school or day release courses in academic subjects such as English, British Constitution, Economics, participation in organized sports and athletics, learning how to swim and gain lifesaving awards and attending outward bound courses in the mountain regions. This is followed up by community service in local hospitals, youth centres, disabled veterans' homes and other similar institutions, and assignments to various police stations with occasional patrol in the company of a constable in the last few months before attestation.

LEN: With respect to training curricula, where are such subjects as human relations and other management principles conducted?

HUNTER: While most force training departments incorporate basic "man management," principles in their short courses for newly-promoted Sergeants and Inspectors [the equivalent of Lieutenant rank], the more complex and difficult problems of enforcement, order maintenance and internal management are studied and researched in depth at the National Police College at Bramshill in rural Hampshire. The Police College provides education and training at four levels: at the level of the promising young officer with high leadership potential, he enters a process of accelerated promotion; at the level of the newly-promoted Inspector [junior executive equivalent]; at the middle management [intermediate command] and, finally, at senior [potential chief officer] command levels.

LEN: What do you mean by accelerated promotion?

HUNTER: Constables who win a place in a stipulated top group in national examinations for promotion to the rank of Sergeant are free to go forward, through force and regional selection boards, who review ability as well as academic attainment, to a national selection board employing extended interview techniques. Their objective is selection to the one year "Special Course" for which 60 places are available at the Police College. The whole sixty places have not been taken up for some years – an indication of the high standards of college graduate entrants to the service may also undergo this searching interview and, if successful, qualify for the Course on passing the promotion examination, which cannot be taken until an officer's third year of service.

LEN. What does the Special Course involve?

HUNTER. The content of the Special Course in a 50-50 matrix of liberal-academic and professional studies. Successful candidates are automatically promoted to Sergeant and within one year of sucessful completion of the course must he promoted to the rank of Inspector. After this initial career spurt, the Special Course men compete for promotion on equal terms with other officers.

LEN What are the requirements for promotion above the rank of Inspector, and has there been a problem with other Constables because of accelerated promotion?

Continued on Page 9

"To teach the basic ingredients of common crimes, offenses and procedures necessary to the successful performance of a beat officer's job, it is no longer thought necessary to go into the finer points of law."

Continued from Page 8

HUNTER: Promotion above the rank of Inspector is not by examinarion but by merit and proven ability and, quite apart from the statistical impossibility to do so, Special Course products have not monopolized the senior posts in most British police forces.

LEN: Can you tell us something about the Bramshill curriculum?

HUNTER: The remaining courses at Bramshill are currently being reorganized. Newly-promoted Inspectors' courses will be of three months' duration, with the usual matrix of liberal-professional srudies and the introduction of some management studies. There will then follow the "Command Courses" : Part one of three months' duration for newly-promoted Superintendents to fit them for Divisional Command, and part two of six months' duration for Superintendents and Chief Superintendents who are adjudged, through stringent selection procedures and extended interview, to have the potential for senior command posts. There is again in these courses the usual liberal-professional College mixture, but with a growing emphasis on management studies and research projects.

LEN: You mentioned that new recruits are currently trained at regional training centers. What are the requirements in this area?

HUNTER: Police regulations require recruits to serve a two year probationary period during which the probationer is liable to dismissal by his chief officer on the ground that he is not likely to become a satisfactory police constable. This prohationary period is now treated as a training period with a mixture of residential, day release and on-the-job training, with the District Training centres responsible for the residential periods, and force training departments undertaking and overseeing all other aspects of probationary training.

LEN: What does the probationary period involve?

HUNTER: The probationary period is broken down as follows: A one-week induction course prior to Disttict Training. A ten-week initial training course at the District Training Centre. Return to the force, followed by a two-week's "Local Procedure" course, covering local reporting and station procedures, local problems and force geography. Then, after thirteen-weeks in District and local training, a period of 18 months on the job learning, in a normal patrol shift and under the supervision of the shift Sergeant who reports on the probationer's progress every three monrhs by normal methods of appraisal. For the first month of street duty the probarioner is accompanied by a tutor constable, especially chosen for his professional ability and aptitude.

LEN: What happens at the end of the 18 month period?

HUNTER: The probarioner returns to the District Training Centre, to rub shoulders and exchange information and experiences with his fellows from other forces and undergo a final "topping out" continuation course of two-weeks' duration. During these two weeks instructors will counsel probationers and attempt to remedy any areas of weakness in knowledge and practical application identified during the preceding months of duty. It is impossible to cover the whole field of criminal law in two weeks and the probationary student is taught how to research in his spare time into the more difficult aspects of law and police procedures. At the same time visiting senior officers with experience of difficult police problems — public order, labour disputes, juveniles, community relations and drugs -- attend the centres and join discussion panels aimed at deepening the professional insight of the probationers. Problems and crimes are also simulated and probationers gain further practice in the skills of interviewing and statement taking.

LEN: The ten week initial training course has been developed over time, and after much study. Can you tell us something about the instructional disign?

HUNTER: The new 10 week initial training course was devised according ro the principles of Instructional Systems Design. I am concious that talking to an American audience about systems design — if you will pardon an old English expression — would be like teaching granny to suck eggs. The practice of job analysis and the relation of a job specification to training objectives are aspects of modern management in which you have led the field for some considerable time. However, you may be interested in some of the twists made by the unit study group in applying these principles ro the police training course. The group studied the old syllabus, stumped around the country and interviewed many supervisory officers and probationary constables in order to draw up a realistic job specification, and identify certain areas where training had hitherto been lacking. It was found that the most common denominator was a lack of training in practical skills — dealing with and interviewing people, compiling reports and recording statements — and in activities disigned ro improve all round practical ability and self-confidence

LEN: Much of the emphasis in the program is on job-related training. Can you tell us a little more about this?

HUNTER: In relating the various ingredients of the job specification to the training syllabus and in reducing the content of the old course the provincial study group adopted three related criteria. These were, the importance or criticality, to the total job, or a behaviour or skill to the Working Party Report on Police Probationary Training. The more crucial a skill is to the successful performance of the job the more important it is to include such a skill in formal training. The frequency occurrence within the total job of a behaviour or skill. The difficulty inherent in learning the behaviour or skill. Obviously some skills can be picked up and learned on-the-job quite easily. Others may require a great deal of practice or simulation during training before an acceptable level of on-the-job performance can be achieved. The significance of this criterion can be seen in combination with the previous criterion. A skill utilized very rarely but which nevertheless was critical to successful on-the-job performance would require a high level of initial training.

In combining and weighing each of the critical elements the group decided which tasks did not require training, those which required formal training and those which required the student to have a high level of mastery — that is, in a category called "Overtrain."

The assessment of performance became an integral part of training objectives (performance criteria) and success or failure is now measured by the ability of each trainee to achieve his objectives in validated objective attainment tests — written and practical.

In addition to validation the next essential concept in the system became its "evaluation." This involves the system of "feedback" between supervisory officers and probationers, Force Training officers, Training Centre staff and the Central Planning Unit. Thus changes in the job pattern of a police officer should be immediately reflected by changes in the training programme.

LEN: How is course content organized?

HUNTER: The stringing together of the various activities and lessons in the new syllabus was achieved by means of network analysis, thus ensuring a logical progression in teaching. All preparatory material essential to the understanding of a lesson is properly included during an earlier stage, and a student who deals with a simulated road accident during the later stages of the course has had sufficient practice in dealing with elementary traffic situations, interviewing witnesses and recording statements.

LEN: Do you utilize guest lecturers and, if so, how?

HUNTER: A number of general studies subjects involving individual and social psychology, sociology, legal and constitutional theory and race relations, are taught by visiting academics and social workers. The objectives of this aspect of the course are to enable recruits to gain a better understanding of society and the police role. The recruiting of suitable teachers, in daily contact with real life experience and capable of pitching their material at the right level is a difficult task, resolved in my case by avoiding the Universities and gaining the assistance of Adult Colleges of Further Education

LEN: How is the legal section of the curriculum handled?

HUNTER: A comprehensive set of lesson notes for instructors and students has been produced, containing lesson outlines, student and instructor objectives and study notes containing all information which is essential to the understanding of a subject. To teach the basic ingredients of the common crimes, offenses and procedures necessary for the successful performance of a beat officer's job and as a foundation on which to build during on-the job training and private study, it is no longer thought necessary to go into the finer points of law. The emphasis is on cognition of the basic elements of crimes and offenses, followed by correct initial police action. While court ridings and decided cases are taken into account in the description of offenses and correct police action the teaching of case law is at this stage studiously avoided. Each lesson note contains details of points to be reinforced by the use of training aids, and these aids are prepared as needs are identified.

LEN: How are students evaluated?

HUNTER: Students are expected to reach a level of 70 percent in objective tests. Each week's work is tested in a weekly progress test of 25 questions and major 100 question objective examinations are imposed at the midway and final stages of the course. Examination results are continually analysed and validated by the Central Planning Unit which has access to a computer. Lovers of the old subjective essay style of examination are usually cured of their scepticism when faced by examples of some of the highly professional item writing achieved by the Unit.

"[The study group] found a lack of training in practical skills — dealing with and interviewing people, compiling reports and recording statements."

"The recruiting of suitable teachers, in daily contact with real life experience and capable of pitching their material at the right levelis a difficult task."

COMING IN LAW ENFORCEMENT NEWS

The Behavior Modification Controversy
in U.S. Prisons
Homosexuals and Policing
Rural Law Enforcement Training
Police Weapons Technology: Bringing
the War Back Home
and much more

THE CRIMINAL JUSTICE CENTER
JOHN JAY COLLEGE OF CRIMINAL JUSTICE
announces a workshop on

"POLICE SOCIALIZATION:
CREATING AN ANTI-CORRUPTION CLIMATE"

April 8-9, 1976

• This program is designed to explore the contemporary police officer's working environment and the impact of that environment on his inclination or reluctance to engage in corrupt activities.

• Workshops will focus upon police leadership styles, police-media collusion, public apathy, and internal political interference, and the manner in which these factors affect the level of integrity within police agencies.

• The program will feature a panel discussion examining the organizational and individual psychological costs of police corruption and the process of rationalization which allows corruption to continue.

• Participants include Commissioner Robert diGrazia, Boston, Massachusetts; Chief James Parsons, Birmingham, Alabama; Chief Robert L. Hansen, Seattle, Washington; Chief George Hart, Oakland, California; Chief Wesley Pomeroy, Berkeley, California; Chief John Ball, Charleston County, South Carolina. Also participating in various workshops will be Prof. Lourn Phelps, University of Nevada; Prof. Albert Reiss, Yale University; Dr. Allan Shealy, University of Alabama; Thomas Decker, Deputy Director of the Federal Defender Program; Dr. Richard Ward, John Jay College of Criminal Justice; and noted figures from the media and police labor organizations.

• Registration:
Thursday, April 8, 1976
8:30 A.M.
at the
Ramada Inn
Fisherman's Wharf
590 Bay Street
San Francisco, Calif. 94133.

• Housing: Available at Ramada Inn. Indicate that you wish the Anti-Corruption Workshop rate of $23.00 single, or $32.00 double, when contacting them.

• Cost: $35.00 registration fee, includes lunch on both days.

• For further information, contact:
Robert Mc Cormack
(212) 247-1600, 1601, 1604

Please register the following individuals for the workshop on "Administrative Response to Police Corruption."

Name_____ Title_____
Agency_____
Address_____
_____ Zip_____
Name_____ Title_____
Agency_____
Address_____
_____ Zip_____
Telephone: ( ) _____
Payment enclosed ($35 per person) _____ I will pay at door ____
Return to:
Robert McCormack
Criminal Justice Center
448 West 56th Street
New York, N.Y. 10019

Supreme Court Briefs

Following are summaries of recent decisions of the United States Supreme Court affecting law enforcement and criminal justice.

Capital Punishment

March 30 and 31 have been set as the dates for the newest showdown on the controversy over the constitutionality of capital punishment. Oral arguments will be heard by the Supreme Court on those dates in the cases of six convicted murderers who are appealing their death sentences.

With a hazy 5 to 4 decision in the 1972 case of Furman v. Georgia, the Court struck down all state death penalty laws, because they were administered unevenly. A new ruling on the subject is expected by the end of the current term in June. A major question mark in the outcome of the cases is expected to be Justice John Paul Stevens, who recently took William O. Douglas's place on the Court.

• • •

Power of Arrest

A split Supreme Court ruled that a law enforcement officer may make an arrest without a warrant in a public place even if the officer had adequate opportunity to secure the warrant. The Court stated that the officer is simply required by the Constitution to have probable cause to believe that a felony has been committed. (United States v. Watson.)

(See news story, page 1)

• • •

Police Brutality

In a 5 to 3 decision, the Court has ruled that victims of police brutality may not sue high-ranking officials unless it can be proved that the officials were directly responsible for the misconduct. The justices overturned a lower court order mandating new procedures to deal with complaints against Philadelphia police, holding that the order constituted undue interference in police affairs.

District Judge John Fullam had ordered the new policy, saying that the number of instances of police misconduct was "unacceptably high" and department officials had not taken steps to eliminate them. The Supreme Court, said Judge Fullam s order constituted "an unwarranted intrusion by the federal judiciary" into matters entrusted to local officials."

In dissent, Justices Harry Blackmun, William Brennan Jr. and Thurgood Marshall claimed that the case was "one of those rightly rare but nevertheless justified instances" in which the federal courts may intervene in local executive affairs. (Rizzo v. Goode.)

• • •

Firearms Trafficking

A felon may be found guilty of receiving a firearm transported across state lines, even though he simply bought it in a local hardware store, the Supreme Court has decided. In the opinion written for the 6 to 2 majority, Justice Harry Blackmun rejected the contention that the 1968 gun control act, in making it illegal for a felon "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce," applies only to such businesses as mail order houses.

Justices William Rehnquist and Potter Stewart dissented, holding that Congress had in mind a narrowly-constructed Supreme Court interpretation of an earlier law when it passed the 1968 act. (Barrett v. United Stares.)

• • •

Pending Appeals

The Supreme Court has ruled that if a defendant dies after having filed for Supreme Court review, his petition "is therefore dismissed," and the conviction will stand. By a margin of 8 to 1, the Court overruled a section of the 1971 case of Durham v. United States may be inconsis- "death pending direct review of a criminal conviction abates not only the appeal but also all proceedings had in the prosecution from its inception."

In the current decision, from which only Justice Byron White dissented, the majority declared that "to the extent that Durham v. United States may be inconsistent with this ruling, Durham is overruled." (Dove v. United States.)

Cincy Businessmen, Police Brass Protest New Rules on Crime Records

The proposed federal regulation prohibiting release of criminal records of prospective employees will create security problems, according to some Cincinnati businessmen and law enforcement officials.

The Greater Cincinnati Chamber of Commerce recently sent protest letters to President Ford, Congress and Ohio Governor James A Rhodes, calling for the postponement of the guidelines until the Federal Privacy Protection Study Commission completes its recommendarions for information systems and control in June 1977.

The Justice Department contends that the regulations are "designed to protect the privacy of individuals who are referred to in such criminal history information." However, Cincinnati police officials say they are confronted with having to guard persons with criminal records from invasion of privacy while simultaneously worrying about white collar crime which may result when such persons are hired for sensitive business positions.

"Bank robbers could be hired as bank clerks, drug addicts could get jobs at hospitals," said Assistant Police Chief William Bracke.

William Liggert, the president of the Cincinnati Chamber, reinforced Bracke's statement saying, "Increased risks and actual losses are certain." But Edward Wolking, a spokesman for the group, was not as adament. "The other side of the coin is I'm sure many businesses discriminate against people with criminal backgrounds," he said.

The regulation prohibits police from providing details of individual criminal records in cases no longer pending. However, state legislatures could adopt provisions enabling private corporations with a legimate need to find out if a prospective employee has a criminal history, according to the Justice Department

BOOK NOTES
By ANTONY E. SIMPSON

Trial Judges and Continuing Legal Education

It is only in the last 25 years that the idea of continuing education for judges has been seriously discussed by informed opinion either within, or without, the legal profession. Until the mid-1950's, there were scarcely any facilities or programs designed to improve the competence of the judiciary. The only ways in which the newly-appointed judge could improve his professional abilities were through his own reading and experience on the bench. No formal organization existed by which the principles and techniques of good judgeship could be taught to those less experienced holders of judicial office.

To understand the significance of this situation to the overall quality of the judiciary, one must appreciate the very distinctive methods by which judges in this country are chosen. In Continental Europe, judges are recruited from a fairly small group of lawyers who have actually been in training for appointment to the bench since completing law school. Such training usually involves extensive specialized course-work and a lengthly period of apprenticeship during which the prospective judge serves the court in a variety of positions which carry increasing degrees of responsibility. (For fuller discussion of systems of judicial selection and training in European countries, see the article by Stason, listed below.)

Countries within the Anglo-American system of law do not usually recruit their judges from such a specialized group, but do require a judge to have had considerable experience as a trial lawyer. In Great Britain, for example, judges are selected on the basis of non-political criteria and most of those appointed to the bench are barristers whose entire legal experience has been, by definition, as trial lawyers. (See the 1963 book by Karlen.) Most countries within the British Commonwealth use similar systems.

In the United States, the methods by which judges are selected are, of course, quite different. A variety of selection methods are used within different jurisdictions in this country. All these involve some variation of selection by either the elective process (election by a legislature, a party convention or in a direct primary), or by the appointive process, in which appointments can be made by an individual, a commission, or a board and which may or may not require confirmation at another level of government. (For a good discussion of these methods, given in the context of their historical development, see Nelson. For an account of how federal judges are selected, see the Chase article.)

One thing which all the methods, and their variants, used in this country appear to have in common is their close relationship to the political process. The net result of such an arrangement is that judges frequently obtain positions which are unrelated to their experience or temperment, and lawyers are all too frequently appointed to the bench with little relevant trial experience.

The prevalence of this situation is well documented by a survey which was carried out by the Institute of Judicial Administration in 1965. In this study, data on the previous experience and training of a large number of trial judges were obtained through responses to a questionnaire. These responses indicated that, although a sizeable minority of judges appears to have had some prior experience as prosecutors, the relevant experience of those engaged in

Continued on Page 14

Manual Published to Aid in Selection of Police Chiefs

A handbook designed to help municipal officials in the selection of chiefs of police has been published jointly by the International City Management Association and the Police Foundation.

The 155-page manual, written by Michael J. Kelly, Dean of the University of Maryland School of Law, emphasizes the basic principle that "a successful search for a police chief does not simply look for a person to fill an administrator's office. It looks carefully at the police department itself and at the municipal executive's expectations for that department."

Although intended to help city officials avoid certain common pit falls in the selection process, author Kelly stresses that the book "is not a definitive study or comprehensive review of police chief selection throughout the nation."

Rather, he notes, the manual attempts to "discuss candidly a problem which faces many municipal executives, and to suggest options open to those who participate in a search for a police chief."

Copies of the publication, entitled **Police Chief Selection: A Handbook for Local Government**, are available from the Foundation's Communications Department, 1909 K Street, N.W., Washington, DC 20006.

New Books on Review

Vehicle Theft Investigation. By David Brickell and Lee S. Cole. Davis Publishing Company, Inc.: Santa Cruz. 1975. 282 pp. $8.95.

Sergent David Brickell of the San Jose, California Police Department and Lee S. Cole of the National Automobile Theft Bureau have drawn upon their extensive experience and expertise in writing this handbook on vehicle theft investigation.

The book is broad in scope, covering the spectrum of vehicle theft so as to include automobiles, motorcycles, trucks, boats, and even light aircraft and snowmobiles. Some of the topics discussed in these areas are the location and interpretation of the VIN (Vehicle Identification Number), recognizing false VIN numbers, the location of "secret" numbers, license plates, serial numbers and the restoration of these numbers by chemical means once they have been tampered with.

The authors also discuss various methods of auto theft and describe many of the tools involved in the perpetration of the crime. The method and process of investigation is discussed in depth, providing several good pointers for both the beginning and the experienced investigator. The authors also outline what they believe to be the role and basic qualifications of the vehicle theft investigator.

This in-depth analysis of vehicle theft investigation based on the authors' years of field experience in investigative procedures, makes this handbook a valuable contribution to the investigator's repertoire of tools to combat vehicle theft. The handbook is well documented and is presented in a usable and easily understandable format. —Michael Heavey

• • •

Caryl Chessman: The Red Light Bandit. By Frank J. Parker. Nelson-Hall Inc. $8.95.

The case of Caryl Chessman was notable for several reasons: the twelve years which elapsed between his sentence and his execution; the fact that capital punishment was imposed for Section 209 Kidnapping under the laws of the State of California; the publicity that Chessman, obnoxious personality as he was, secured for himself by presenting his own defense and then by books and interviews during the long period of appeals; the questioned accuracy of the trial transcript; the doubts as to whether Chessman was the "Red Light Bandit," and doubts as to whether he had a fair trial.

Frank J. Parker, a practicing attorney who is also a Jesuit priest, has made a new survey of the case. His inquiries have been thorough (he generously acknowledges having received complete co-operation in quarters where he did not expect it) and, let it be emphasised, objective. The book is compassionate and at the same time realistic.

Vox populi was certainly not vox dei in its reaction to Chessman's prosecution; public hostility then was based, it seems, on more than the usual degree of misinformation and misunderstanding. I must confess that my own (transatlantic) impression was that Chessman was a murderer, and in extenuation I can only note that such was the opinion of at least one prestigious American law journal.

Parker scrupulously examines the facts. He rightly says that at this date no definitive answer can be given to the question of whether Chessman was the "Red Light Bandit" but he thinks that he was. Was the trial fair? In the main, yes, says Parker, by the standards of 1948. There were glaring defects in the police work, both as regards identification and criminalistics, but these do not invalidate the positive evidence of

Continued on Page 12

New Book Releases for the Criminal Justice Library

Continued from Page 11

guilt.

The law under which Chessman was sentenced to death was a badly-drawn law. It has since been changed and the courts are attenuating its severity. Parker's analysis and comparative commentary in this area are admirable.

Should Chessman have been executed? Many people feel that no one should be exeeuted, but that was not the law. The question here is whether executive clemency should have been exercised by the Governor of the State of California. The author's view is that the Governor made his decision in the light of whether it would "hurt or help [his] political career." This is a grave statement, but it is one which I do not feel qualified to comment on.

The vexing question of the trial transcript, essential to the appeal process, is comprehensively examined and documented. It is clear that this record, despite the bizarre facts surrounding the making of it, was adequate for the purposes of justice.

While there is much to cause unease in this careful evocation of a cause celebre, there is also much that reassures. The many instances of sincere and unselfish action, the liberality of so much that transpired in the course of the protracted consideration of the case by the highest judicial authorities: these go far to offset the way in which the principal actors (and, alas, the audience) became locked in their chosen attitudes. The author's conclusion is pessimistic. "If this case occurred today, I fear everyone would still choose sides and allow mindless rhetoric to dictate what would happen."

The Age of Reason, it seems, has yet to dawn.

—Philip John Stead

• • •

On The Track of Murder: Behind the Scenes with a Homicide Squad. By Barbara Gelb. William Morrow and Company, Inc.: New York. 1975. 313 pp.

This book describes the work of an elite squad of New York City detectives who were specially selected to investigate the most difficult, and often the most notorious, murders in the borough of Manhattan. It is a story of this twelve-man commando squad, their leader, Sergeant Gerald McQueen, and their efforts to track down some of the most frenzied murderers who terrorized one of the most violent cities in the country.

Ms. Gelb also constructs a personal portrait of Sgt. McQueen, his wife and children and the families of the men working for him. For two years, the author was given extended access to the on and off-duty lives of these detectives. She alternates chapters which describe the investigations the squad is currently pursuing with the events shaping the personal lives of these officers, a side of police work which seldom appears in popular literature.

This is not a classical murder mystery novel, neatly packaged for maximum suspense and thrills. The reader's interest will rise and fall along with the success and frustrating failures of the homicide squad. Ms. Gelb has captured the true flavor of detective work in which countless hours of tedious investigation fail to yield tangible results. The reader experiences the same feelings of rage and disappointment as the killers of unsuspecting citizens and small children go undetected.

This book should be of interest to the casual reader as well as to the criminal justice professional. While not consistently dramatic, it does constitute an accurate and well-written account of big city criminal investigation.

—Joseph L. Peterson

• • •

Punishing Criminals: Concerning a Very Old and Painful Question. By Ernest van den Haag. Basic Books. 1975.

Once again the philosophical pendulum of the question of treatment of criminals swings in the direction of punishment. Our correctional system was initially based on the concept of punishment. In recent years we have adopted the view that the criminal is "sick" and should be treated as such. Ramsey Clark, in his Crime in America, is a staunch supporter of this viewpoint and necessarily a strong advocate of the rehabilitation of the offender. Ernest van den Haag, on the other hand, feels that rehabilitation has not successfully accomplished its goals. Society, according to van den Haag, does not owe the offender treatment; what is owed to the offender is punishment for the breaking of society's laws. Van den Haag postulates this position in his new book Punishing Criminals.

The reader, even one diametrically opposed to van den Haag's views, must pause and reflect on his persuasive arguments. Much of what the author states, although presented in somewhat simplistic terms, appears to make sense.

If one is of the belief that crime is a rational activity, then as van den Haag states, "what must be changed is not the personality of the offender, but the cost-benefit ratio which makes his offense rational." This ratio, the author suggests, can be changed in several ways. First, the legitimate opportunities available can be increased. Secondly, the opportunities for illegitimate activities can be decreased. Finally, the cost to a potential offender of participating in illegitimate activities can be increased, including punishment.

If laws are needed to restrict an individual's behavior for the sake of the society, then the threats of punishment are needed to control those tempted to break laws. van den Haag stresses that these threats of punishment are only credible as long as they are carried out swiftly and consistently. When one is found guilty of violating the laws, punishment must be swift and judicious.

In order to protect society and preserve order, society pays its debt to the law-abiding by carrying through the threat of punishment upon the criminal. It is not the criminal who "pays his debt to society." Punishment, states van den Haag, is meant to serve as a deterrent to other would-be offenders. It has been argued that our overcrowded prisons prove that rehabilitation does not work. The same statement can be used to disprove the theory of punishment as a deterrent. van den Haag's reply to this is a counter-question: how do we know how many more crimes might not have been committed if the potential offender had not been deterred?

The author provides the reader with a good understanding of the purpose of having effective laws. van den Haag spends a good portion of the book re-examining the major theories of crime causation and offender punishment. He presents both sides of each issue and draws several well thought-out conclusions.

According to van den Haag, "the rights of individuals are so highly valued at present that social defense is slighted." The rights of society are more important than the rights of the offender; to this end he advocates the repeal of the exclusionary rule, harsher treatment of juveniles and limiting the number of appeals to which the offender is entitled.

Most of the author's policy recommendations are practical and humane, though his thoughts on the use of exile and banishment are not very realistic, given the restrictions of modern society.

van den Haag is searching for the answer to how punishment can be justly and effectively administered — "neither less nor more harsh and certain than required to secure life, liberty and the pursuit of happiness."

—Dennis Liebert

• • •

Criminal Justice as a System — Readings. Edited by Alan R. Coffey and Vernon E. Renner. Prentice-Hall Inc.: Englewood Cliffs, New Jersey. 1975. 377 pp.

Alan R. Coffey and Vernon E. Renner have arranged their book to follow the American Criminal Justice System of input process and output, i.e., violation, police, prosecutor, courts, corrections, and societal success with crime. The readings they have chosen to include in the text both delineate and clarify the nature of this system: they all serve to exhibit the interrelationship of the interlocking subsystems that constitute our system of justice.

Many of the articles, published previously, are succinct, provocative, and successfully highlight the notable problems found in criminal typing, criminal statistics, police role, juvenile cases, prosecution, prison life, parole, and management that exist in the United States today. Because of these diverse, well written articles, the book serves as a marvelous introduction and background to the problems facing the various segments that constitute the American Criminal Justice System in the 1970's.

The sections of the book, concerning law enforcement, corrections and management of criminal justice agencies contain stimulating essays on prosecution, defense, sentencing, probation, prison, and parole. The articles represent a broad section of the United States and are in no way limited to a regional or sectional view of criminal justice. The editors of the book have included articles that express a thorough overview of the Criminal Justice system as it exists, in general, through our 50 states.

Of special interest to many, no doubt, will be the book's concluding chapter containing articles on management by objectives — the managerial system that is the most discussed management method being implemented in many public service agencies throughout the country. It is a credit to the editors that they were insightful enough to include it in their book, and it makes the text that much more commendable and timely.

The editors have succeeded in compiling a book that is of special interest, as an introductory text, to the student who wishes to enter any part of the Criminal Justice System.

—Ronald F. McVey

• • •

Unequal Justice Lawyers and Social Change in Modern America. By Jerold S. Auerbach. Oxford University Press: New York. 1976. 395 pp.

This review is written on Human Rights Day, 1976, an occasion not without significance for the story Jerold S. Auerbach unfolds for us with care, style and message. His message is clear. The lawyer's professional evolution from the 19th Century, rural, general practitioner, described by de Tocqueville and enshrined in Lincoln mythology, to today's elite lawyers of prestigious law firms and governmental services has often betrayed the calling to serve law and bring justice to the needy. The controversy over the nomination of Charles Evans Hughes as Chief Justice illustrates:

"The call is inevitable and irresistable for every lawyer of extraordinary ability to go from the country to the city where the great professional prizes are, and if he succeeds in the city, he is bound to get as clients what every lawyer is seeking for, those who control the most important interests. So Mr. Hughes attracted as clients the great business interests . . . they can pay for the highest talent." (p. 152)

While the selective service of wealth is a more obvious flaw in providing for the legal needs of a population, deeper jurisprudential matters were at issue. Is the lawyer merely at the service of a client? Is he to be value-neutral in the ethics of the case merely to obtain the best negotiation he can for his client? Does the lawyer have an obligation to wider legal advocacy? Is it his job to bring social change through law, to be an advocate of causes and persons less favored by the elites? Hence the debate between functionalists and realists. More serious are Auerbach's charges of invidious distinctions made within the profession: excluding black lawyers, discriminating against other immigrant ethnics — Jews, Irish, Italians, using the power of the bar associations to control membership in the legal fraternity and inhibiting the growth of legal services to the poor.

Auerbach takes us on an historical survey of the founding of the National Lawyers Guild, the struggle of Jewish lawyers — Frankfuter, Ernst, Hoffman, in the New Deal, the fear prominent lawyers had to defend those accused of Communist Party membership, and the deviance in Watergate. The Author's careful documentation, his original research in records of law firms and law libraries, his ability to let the participants in these struggles speak for themselves make this book an important contribution to the understanding of the exclusivity of the practice of corporate law, and the corporate lawyers' ability to direct social change.

Auerbach perceives a failure of social responsibility. Portions of chapters three through eight appeared in the Harvard Law Review and The American Journal of Legal History. The subject matter has received the criticisms of legal practitioners and survives.

Integrated and self-contained chapters characterize this work. Smoothness best describes the author's style. He presents his subject matter in such an interesting fashion that any student of law should be absorbed in its reading, whether it be the machinations of reactionaries or the struggles of reformers. The notes (pp. 309-365), bibliographical essay (pp. 367-380) and index offer the reader a scholarly guide for research.

This work is an excellent introduction to an overview of the power of elitist law firms and of the American Bar Association's policy role. The issues that lawyers have chosen to address or avoid in this century have proven the basis for many of our legal problems today. The author's intention is to portray the failing of a noble profession, to balance the profession's self-praise. This book, if read by aspiring lawyers, might remind them that ethical standards in the practice of law are forgotten at great cost.

—Edward J. Shaughnessy

Alabama Prison Conditions Ruled Unjust

In a landmark ruling last month, a Federal judge imposed a comprehensive set of minimum constitutional standards that must be maintained in the operation of the Alabama state prison system.

Alabama District Court Judge Frank M. Johnson Jr. gave Governor George C. Wallace and other state officials six months to put his detailed guidelines into effect or explain to the court when they would be implemented.

Holding that Alabama prisons are plagued with "massive constitutional infirmities," Judge Johnson ruled that prisoners suffered from cruel and unusual punishment as prohibited by the Eight Amendment to the Constitution by their very confinement in Alabama's prisons.

Robert S Lamar Jr., attorney for the Alabama Prison Board, said that implementation of the order "is going to take whopping sums of money, and I can't tell you where it is coming from." In spite of this, he said that no decision has been made as to an appeal.

The issue of prison funding, he pointed out, "is a problem Alabama shares with most other states, especially the poorer states."

Within the past six years, Federal courts have found prison conditions in Arkansas, Maryland, Mississippi and Massachusetts constitutionally unfit. However, Johnson's ruling seems to be the first that outlines in detail the specific conditions that must be rectified.

He contends that lack of funds is not a valid excuse for violations. "A state is not at liberty to afford its citizens only those constitutional rights which fit comfortably within its budget," he said. "The Alabama Legislature has had ample opportunity to make provision for the state to meet its constitutional responsibility in this area and it has failed to do so."

The judge's 44 guidelines detailed steps that would require reducing the prisons' inmate population by half while almost doubling the prison staff. He warned that he might order some of the facilities closed if physical conditions in the state's four main penal institutions were not corrected within a year.

The ruling also advised state officials that they might be held personally liable for money damages if conditions cited in the lengthy memorandum were not corrected.

Progress toward compliance will be monitored by a Human Rights Committee of 39 lawyers, doctors, clergymen, and other Alabama citizens which was instituted by Judge Johnson.

Referring to the "rampant violence and jungle atmosphere existing throughout Alabama's penal system," Judge Johnson noted that almost all inmates had to carry weapons for self-protection and that any person entering the system had "no chance of leaving the institution with a more positive or constructive attitude than the one he or she brought in."

To protect the safety of the inmates from physical violence, Johnson ordered the implementation of a system of internal security. He mandated that the number of guards must be increased from 383 to 692 and that the guard force should reflect the racial and cultural composition of the inmate population. Presently, the security force is predominately rural white while a majority of inmates are urban blacks, the judge said. He indicated that such a disparity leads to "racial slurs, further straining already tense relations."

Among other things, Judge Johnson ordered Alahama officials to provide every prisoner with at least 60 square feet of living space, "three wholesome and nutritious meals per day," weekly visits, "a meaningful job," and better medical and recreational programs.

WHAT'S ON YOUR MIND?

Have a comment you'd like to make? Law Enforcement News invites its readers to submit commentaries on any subject of current interest to the criminal justice community. All contributions should be sent directly to the editor's attention.

U.N. Crime Congress Finishes Diverse Business

By STAN SHOWALTER

Terrorist activity, regulation of private security firms, and extended training for police officers were among topics discussed at the Fifth United Nations Congress on the Prevention of Crime and Treatment of the Offender. The Congress, which was held in September at the Palais des Nations in Geneva, Switzerland, attracted more than 1,000 law enforcement officers, penologists and criminologists from 104 member nations for the two week session.

The Congress drew up recommendations for all its members. The nations were asked to undertake studies to develop more knowledge regarding female criminality; strengthen and observe the extradition laws; extend universal jurisdiction to such crimes as hostage-taking and bombings; and to give preference to drug prevention programs. Other recommendations were made regarding corrections, traffic procedures, and other law enforcement problems.

It remains for members of the Congress to initiate action in their respective countries now to bring these recommendations into practice.

The fundamental work of the Congress was organized around five agenda items, divided into sections. The first considered the changes in forms and dimensions of criminality both on a national and transnational basis. Some topics discussed under this heading included: organized crime; white-collar crime; corruption; crime associated with alcohol and drugs; violence of international significance; female crime; and, forecasts of crime and crime control problems.

The second section dealt with criminal legislation, judicial procedures and other forms of social control in the prevention of crime. Characteristics and factors of current difficulties of the criminal justice system were examined as well as the possibility of short and medium term reforms in criminal law. Other topics included procedures to lighten the judicial machinery load; non-judicial methods of crime prevention, and the need for long-term re-examination of the role of the sub-system of social control.

The congress's third section looked into the emerging roles of the police and other law enforcement agencies. Special emphasis was given to the changing expectations and minimum standards of performance for the policeman. Some subjects included in this section were: police professionalism and accountability; training and recruitment; police/community relations, private security organizations; international police cooperation; and police involvement in formulation of legislation.

The treatment of offenders was the broad heading given to the fourth section. Special reference was made to the implementation of the Standard Minimum Rules for the Treatment of Prisoners which were previously adopted by the U.N. Besides considering the regulations as they pertain to today, the participants discussed alternatives to imprisonment, factors in correctional reform and protection of all detainees against torture and other inhuman treatment.

The fifth section of the Congress dealt with the ecomonic and social consequences of crime with regard for possible research and planning topics. These included: identification of the major economic and social consequences of crime and policies for crime control, assessment of the costs of crime; and planning to minimize and redistribute such costs.

Sentiments of a majority of delegates and participants in the Congress reflected positive feelings concerning the work which had been accomplished. FBI Director Clarence Kelley summed up many of these sentiments when he said: "The opportunity to participate in the United Nations Congress on Crime was both a beneficial and an enlightening experience. It was of particular interest to me to learn the extent to which law enforcement agencies around the world face the same problems as we in America."

The Congress was authorized by action of the U.N General Assembly when, in 1950, it provided for an international congress on crime to be held every five years. The 1955 Congress was held in Geneva; in 1960 it was located in London; in 1965 Kyoto was the host city. The 1980 Congress is planned for Australia.

Trial Judges and the Need for Continuing Legal Education

Continued from Page 11

private practice before being appointed to the bench is decidedly limited. Of those judges in this category, none indicated that they had specialized in criminal law when in private practice and about 25 percent reported that their practices did not include any criminal cases.

Although this survey is now over ten years old, there is little reason to think that the situation it portrays has changed substantially. Because the methods by which judges are chosen for the bench do not take into account commitment or suitabiltiy of experience, there is little doubt that many of the judges who take up their appointments today are ill-prepared indeed.

Recognition that if judicial standards are to be maintained some form of in-service training must be given to newly-appointed judges has long been implicit in the literature of this field. The 1967 Task Force Report on the Courts was very critical of the situation as it stood at this time (pp. 22-3 and 68-9). The 1973 report on the courts went a good deal further than this and in a standard devoted exclusively to the subject of judicial education (Standard 7.5, pp. 156-9) is quite clear in supporting the position that continuing legal education for judges is a concept which is essential to the maintenance of a competent judiciary.

In this standard, it is suggested that in-service training programs should be sponsored at the state level of government. Programs are conceived as being compulsory, extensive and integrated with the training programs organized on the national level. An important aspect of this standard is its implication that judges themselves should accept the necessity for additional training as a responsibility of their office and could be called to account for any failure to live up to this responsibility. "The failure of any judge, without good cause, to pursue educational programs . . . should be considered . . . as grounds for discipline or removal" (p. 156).

There is also some evidence that judges themselves have come to recognize the need for in-service training. The 1965 study carried out by the Institute of Judicial Administration indicated that a very considerable majority of those surveyed accepted the need for such training and a sizeable proportion accepted the responsibility for undertaking at least some of the necessary training on their own time.

Over the last 15 years or so, the concept has gained a considerable degree of acceptance by almost all those involved in any way in our system of judicial administration. (Accounts of the development of the concept and of its implementation up to the mid-1960's are given in the articles by Karlen and O'Connell.)

It would, however, be unrealistic to suppose that the continuing education programs which have been developed in recent years have resulted from pressures from within the courts themselves. Our system of judicial administration has undergone an almost continuous battery of criticism over the last decade. Public dissatisfaction with the efficiency level of our courts and of a number or our judges seems to have reached unprecedented heights. The work by James, for example, includes a series of articles which originally appeared in the **Christian Science Monitor** and which discuss various features of the court system. Most of these articles are highly critical of aspects of the system and are probably representative of the views which have lately been expressed by the media.

The "incompetent judge" is a figure which has always been familiar to trial lawyers. However, it is only recently that the notion that incompetents on the bench not only do exist but probably exist in large numbers has been extensively discussed in law review articles. (See, for example, the article by Frankel.)

Any discussion of how incompetent, corrupt, or otherwise undesirable judges should be dealt with necessarily involves consideration of the very tricky problem of how to make the judiciary productive and accountable without undermining its independence. However, debate on this whole problem has resulted in increasing recognition that adequate training is a necessary prerequisite for any judicial system concerned with productivity.

Most of the discussions of judges who are, for one reason or another, inadequate are anecdotal in nature. They concentrate on describing examples of unprofessional behavior from the bench. It has always been difficult to assess just how much of a problem this behavior is. However, research studies indicate that there is widespread unjustified disparity in sentences meted out to offenders convicted of comparable offenses. (Summaries of some of these studies, together with discussions of the impact of sentencing disparity on the criminal justice system, are given in the 1967 and the 1973 reports on the court system.)

From a consideration of the factors outlined above, the case for providing mandatory continuing education for judges seems to have been established fairly conclusively. Influences inside and outside the legal profession and the criminal justice system have encouraged the introduction of programs of this type in court systems throughout the country.

The first training program for judges ever developed in the United States was the American Bar Association's traffic court program which was instituted in 1947 at New York University Law School. Since its inception, this program has been organized as a series of one-day seminars and is attended by both judges and prosecutors

It was not until 1956 that the success of this experiment was used to provide the basis for a more ambitious venture. In this year, a series of seminars for appellate judges was initiated, again under the sponsorship of the Institute of Judicial Administration at N.Y.U. Law School, and these have been held at regular intervals ever since.

Over the years which followed, a large number of similar programs were instituted. The federal court system took the initiative in the late 1950's in establishing a number of training programs for trial judges. Since 1962, these programs have been expanded considerably as a consequence of Congressional legislation which greatly increased the funds available for this purpose.

By now, there are quite a number of training programs for judges in a variety of jurisdictions in existence at the national level. The outstanding organizations and institutions which have pioneered national programs of this type include N.Y.U.'s Institute of Judicial Administration, the National Council of Juvenile Court Judges, the American Academy of Judicial Education, and the National College of the State Judiciary. (This last is the official training arm of the American Bar Association.)

As the 1973 report pointed out, the problem now seems to be in instituting programs at the state, rather than at the national, level (p. 157). Several states have been progressive in initiating programs of their own. However, a good many have not yet responded to the 1973 Commission's recommendation that "Every state should create and maintain a comprehensive program of judicial education" (p. 156). It is to be hoped that those lagging states will, in the near future, respond to the pressures of the times and will initiate porgrams of the type developed by states such as Washington and New York.

At present, the concept that continuing legal education is essential for the maintenance of an efficient and equitable judicial system appears to have been generally accepted, at least in principle. Three journals now provide good coverage of recent developments in this area: the **Journal of Legal Education, Judicature,** and **The Judge's Journal** This last, formerly entitled **The Trial Judge's Journal,** is now the principal means of communication in this rapidly developing field. Its contents include descriptions of programs recently established and each issue includes a section which lists forthcoming "Judicial Educational Activities."

In April of 1975, an event occurred which can be expected to have a considerable effect on attitudes toward the educational training of the legal profession in general. At this time, Minnesota became the first state in the union to require all practicing lawyers to undergo a prescribed amount of post-licensing legal education. (For an account of the Minnesota Rule and its requirements, see the article by Harris.)

The institution of this Rule should be seen as a consequence of a number of changes in attitudes toward the legal profession and its obligations to society. It is cited here as a hopeful indicator that we are about to become members of a society which sees in-service training for its judiciary as an essential, rather than merely a desirable, prerequisite for a court system which is both just and efficient.

• • •

Bibliography

Chase, Harold W. "Federal judges: the appointing process," **Minnesota Law Review** 51: 185 et seq. (1966).

Frankel, Jack E. "Who judges the judges?" **Trial** 11: 52-9 (January / February, 1975)

Harris, Frank V. "Minnesota C.L.E. The end of licensing for life?" **Trial** 11: 23-5 (July/August, 1975).

Institute of Judicial Administration. **Judicial Education in the United States.** (New York, 1965).

James, Howard. **Crisis in the Courts.** Rev. ed. (New York: McKay, 1971).

Karlen, Delmar. **Appellate Courts in the United States and England.** (New York: New York University Press, 1963).

Karlen, Delmar. "Judicial education," American Bar Association. **Journal.** 52: 1049-54 (1966).

Nelson, Dorothy W. "Variations on a theme — selection and tenure of judges," **Southern California Law Review** 36: 4 et seq. (1962).

O'Connell, Kenneth J. "Continuing legal education for the judiciary,' **Journal of Legal Education** 16: 405-15 (1964).

Stason, E. Blythe. "Judicial selection around the world," American Judicature Society. **Journal** 41: 134 et seq. (1958).

U.S. National Advisory Commission on Criminal Justice Standards and Goals. **Courts.** (Washington. GPO, 1973).

U.S. Task Force on the Administration of Justice. **Task Force Report: The Courts** (Washington: GPO, 1967).

Current Job Openings in the Criminal Justice System

Chief of Police. Urbana, Illinois. Population approximately 35, 000 (SMSA 170,000); 44 employee department with a departmental budget of $864,000. Position Requirements: Comprehensive knowledge of police administration and methods and command experience. Bachelors in Public Administration, Police Science or related field desired; equivalent experience considered. The salary range is $20,000-22,500 plus fringe benefits. Send resume plus letters of application and references to: Richard M. Franks, Administrative Officer, 400 South Vine, Urbana, Illinois 91801.

Director of Security and Safety New York City Community College is seeking a Director to assume leadership of existing security department. Position would entail proposing and designing appropriate security and safety policies and administering the program. The requirements are a Baccalaurate degree plus experience in security and supervision. The ralary range is $13,930 to $15,530. Send resumes to: Luther M. Johnson Jr., Dean of Administration, 300 Jay Street, Brooklyn, New York 11201.

Ohio Peace Officers Training Program. The Training Academy is seeking two training officers to conduct advanced and specialized in service training of peace officers from the various jurisdictions of the state. Requirements: Masters degree plus three to five years actual law enforcement operational experience. The salary is $14,040. The starting date is July 1, or possibly, September 1, 1976. Send resumes to: Dr. Wilfred Goodwin, Ohio Peace Officer Training Academy, 1650 S.R. 56 S.W. Route 5, Box 49 B, London, Ohio 43140.

Law Enforcement Faculty Position The University of Wisconsin, Platteville is seeking candidates for a vacant position in Criminal Justice, Law Enforcement and Administration. Effective September 1, 1976. Ph.D. or equivalent preferred, ABD considered. Demonstrated teaching ability and/or recent law enforcement experience at the administrative level highly desirable. Applications accepted until March 30, 1976. Send vita and three references to: Dr. Robert W. Warfield, Chairman, Department of Criminal Justice, University of Wisconsin – Platteville, Platteville, Wisconsin 53818.

Criminal Justice Faculty Opening The Criminal Justice Department of Rochester Institute of Technology has a faculty position opening for its undergraduate program and expected new graduate level program. Candidates should be qualified to teach at both levels. Student counseling recruitment and committee membership also expected. Qualifications: Masters degree minimum plus substantial teaching or professional experience. Ph.D. preferred. Position will be available Septerber 1, 1976 in the Assistant Professor rank. The salary is negotiable. Forward vita, copy of graduate rranscript and at least three references ro: John O. Ballard, Director, Department of Criminal Justice, Rochester Institute of Technology, One Tomb Memorial Drive, Rochester, New York 14623.

Law Enforcement Faculty Position. Youngstown State University's Department of Criminal Justice has a position opening in the area of criminal justice management/administration. Applicants should possess relevant doctoral degree and experience. Rank and salary is competitive and will depend upon academic preparation, teaching excellence and professional experience. The position is available September 15, 1976. Applications must be received by March 31, 1976. Send vita to: Richard R. Bennett, Search Committee, Department of Criminal Justice, Youngstown State University, Youngstown, Ohio 44555.

Project Director. $17,000 to $20,000. Contingent on Federal grant approval of Patrol Emphasis Program, to supervise overall planning and program direction of sophisticated police patrol improvement for two years. Seeking individual with significant patrol development and management experience, advanced degree or equivalent in criminal justice planning and administration or related field, and with knowledge of patrol studies. Apply promptly to: Chief of Police, Norfolk Police Department, P.O. Box 358, Norfolk, Virginia 23501.

Chief of Police. South Haven, Michigan (pop. 6,500) seeks qualified chief for 17-member department with a current budget of approximately $288,895. Police supervisory experience necessary. College education is desired, but not mandatory. Salary range is from $17,000 to $19,000 depending on qualifications. Send resume by March 15 to: Albert R. Pierce, City Manager, 539 Phoenix Street, South Haven, MI 49090.

Director, Criminal Justice Academy. The Maine Criminal Justice Academy have announced examinations for the position of Director of the academy. Responsibilities include administrative and supervisory work associated with Academy training programs and personnel. Graduation from a four-year college or university required, with specialization in criminal justice, police administration or a related field preferred. Equivalent in law enforcement experience with a legally-constituted law enforcement agency, including a minimum of three years in an administrative capacity, may be substituted for college experience. Applications available from Personnel Division, Department of Public Safety, 36 Hospital Street, Augusta, Maine. An equal opportunity employer.

JOB ANNOUNCEMENTS

If your department, agency or educational institution has any job openings in the criminal justice field, we will announce them free of charge in the Law Enforcement News job lines column. This includes administrative and teaching openings, civil service testing date periods for police officers, etc., and mid-level announcements for federal agents.

Please send all job notices to: Jon A. Wicklund, Law Enforcement News, 448 West 56th Street, New York, N.Y. 10019. (212) 489-5164.

Urban Police Costs Seen Rising, But Percentage of City $$ Holds

While the cost of urban policing has soared in recent years, the proportion of city budgets allocated to their police departments has not increased, according to a Massachusetts Institute of Technology study.

The project, entitled "Expenditure and Employment Trends in Large City Police Departments, 1959-1973," utilized previously published data from several sources in an attempt to analyze the increasing expenditures of police services. Its author, Amedeo R. Odoni, sees the study as a corrective to the pre-recession tendency of city officials to "expand almost indiscriminately the areas of police activity, seemingly with little concern for the costs [monetary or otherwise] or the potential effectiveness."

Odoni's report states that police expenditures in 33 large cities more than tripled between 1959 and 1973, with the greatest increases concentrated in the last half of that period.

The major factors responsible for the growth in police spending, according to the study, were a 45 percent rise in the number of employees, a 50 percent inflation rate, and a 50 percent advance in real gains in police wages. The salary gains were computed discounting inflation.

The study found that increases in overtime pay and fringe benefits paralleled the rise in salaries, stating that labor-related costs absorbed better than 90 percent of city police budgets despite the introduction of labor-saving technology. The large labor bite was enhanced by real wage gains that were about four times higher for police than for privately-employed, non-agricultural workers since 1966, according to the study.

The report took into account the recent trend of hiring civilian employees to economize. It stated, however, that the potential savings of the practice were voided by the rising proportion of officers with rank.

In completing his research, Odoni was surprised that despite the steep increase in reported crime, and the resulting heightened public concern, "There is, apparently, no major shift that places increased emphasis on police funding in city budgeting."

With municipal budgets now strained, Odoni predicted that labor-management negotiations will center more and more around an implicit trade-off between the two main controllable elements in police spending: manpower vs. compensation.

Report Due Out On Louisville Cops' Off-Duty Conduct

The Lousiville Task Force on Police Conduct will release its preliminary findings on "Police Authority While Off-Duty" this month in order to give the community a chance to respond to proposed standards on the subject.

Conducted by the Louisville's Division of Police, the Task Force is currently exploring all areas of police conduct in an attempt to develop higher standards of professional conduct and to seek better management methods for preventing unethical conduct. It is also trying to find ways to improve police community relations.

Besides off-duty authority, the Task Force will consider all aspects of police conduct including excessive use of force, gratuities, misconduct, protection services, and corruption. The unit will also attempt to develop managerial methods for preventing, detecting and dealing with improper conduct.

Supreme Court Relaxes Requirements For Police Arrests Without Warrants

Continued from Page 1

that Federal law specifically permits postal inspectors to make arrests without warrants in cases where they have probable cause to believe that a felony has been committed. Previous Supreme Court rulings dealing with warrantless arrests were also referred to in the majority opinion.

The four justices appointed by former President Nixon – Chief Justice Warren Burger and Justices Harry Blackmun, Lewis Powell Jr., and William Rehnquist – joined in White's opinion. Justice Potter Stewart concurred in the result, but issued a separate opinion on the case. Justice John Paul Stevens, who was sworn in after oral arguments in the case had been heard, did not participate in the decision.

Justice Thurgood Marshall wrote a harshly critical dissent in which Justice William Brennan Jr. joined. Marshall maintained that "by granting police broad powers to make warrantless arrest, the Court today sharply reversed the course of modern decisions construing the warrant clause of the Fourth Amendment." He also referred to the evolution of rules regarding search warrants, contending that compliance with the Fourth Amendment mandated that a warrant be obtained except in emergency circumstances which dictated proceeding immediately with an arrest.

In the same decision, the Court made an apparent move toward easing – in law enforcement's favor – the guidelines that courts should use in determining the voluntary nature of a defendant's consent to a search of his possessions or property.

In making such a determination, the Court said, the fact that a defendant allegedly consented to the search while in custody after an arrest was only one of the factors to consider. In addition, the fact that there is no proof that the defendant was aware of his right to withhold consent is just one factor, rather than a controlling one.

Watson's conviction had been reversed on its original appeal to the Federal Court of Appeals for the Ninth Circuit. The appellate panel had ruled that the credit cards found in Watson's car should not have been introduced into evidence at his trial.

Chicago's Revenue Sharing $$ Impounded in Bias Controversy

Continued from Page 2

the police officer feels his advice was largely ignored by the police department's top officers. "We have no working relationship with them," he said. "The department is extremely hostile to the League. There's no two-way communication."

Chicago Mayor Richard Daley communicated his views on Judge Marshall's ruling at a press conference the day after the decision was handed down. Calling the judge's minority quota "totally un-American," Daley said. "What about the Polish? What about the Italians? What about the Jews? And don't forget the American Indians. They were here first."

Daley acknowledged that he will comply with the Federal Court order saying, "When you're short of money, you don't have all the cards in your hand."

The mayor may still have a few aces up his sleeve, however. He has reportedly borrowed $55 million from Chicago banks to replace some of the shut-off funds and has also written to ORS seeking the release of impounded monies on the grounds that the city will no longer use them for police functions.

"Why should we go down and beg for something that belongs to Chicago?" Daley asked. "We should have our share." He noted that Chicago has a higher ratio of black policemen to black residents than any other U.S. city, comparing his city's one to every 518 figure with Pittsburgh's one to 1,900 ratio.

Robinson called Daley's comparison "another self-serving statement" and said flatly, "All cities discriminate."

The Civil Rights Division of the Justice Department is in the process of rectifying the situation. David L. Rose, the chief of its Employment Section, reeled off a long list of state and local law enforcement agencies where anti-bias litigation is pending. Rose's inventory includes agencies from all sections of the country, large departments and small. He also reported that decent decrees have already been handed down in New Jersey, Miami, Maryland and Montgomery.

Rose said that he is not aware if funds have been impounded in any of the decrees, but he admitted that the Chicago decision may affect the ultimate outcome of pending cases. "Anytime you decide a case, it's precedent for the others," he said. "It depends on how the lawyers use the previous decision in court."

While most of the departments named in discriminatory suits were unwilling to discuss their cases, a lawyer from the Birmingham, Alabama Law Department outlined that city's defense. Herbert Jenkins said that the Birmingham suit involves a number of municipal positions ranging from police officer to zoo keeper.

"Years ago it was more legal to discriminate," Jenkins said. "But we've increased our black employment. We have proof that we are taking affirmative action."

A jurisdictional problem is also involved in the Birmingham case. The plaintiffs charge that the police test is discriminatory, however, the exam is not controlled by the city. "It's given by the Personnel Board of Jefferson county," Jenkins said, "which is an agency of the state."

Jenkins also cited a fiscal crunch as a cause for discriminatory practices. "People have passed the test, but the budget ran out," he said, adding that layoffs and reduction of the force through attrition have become necessary.

Jenkins contends that even when jobs are available, "we don't have that many blacks applying." He mentioned that the city has difficulty competing in the job market with nearby major corporations, but he stated that the department actively seeks black recruits to fill job openings.

The Birmingham suit has not yet come to trial, but when it is decided more than just a zoo-keeper's job may be at stake. The American Civil Liberties Union has filed a nationwide class action suit asking that LEAA funds be withheld from departments which discriminate in hiring.

ACLU lawyer Richard Larson reports that a preliminary injunction has already been issued in the case but that "no action has happened." He noted that LEAA keeps moving for dismissal but, "The judge sits and doesn't do anything. LEAA has regulations on employment practices, and every police department is required to adopt them."

COUNSELOR AT LARGE
By MICHAEL BLINICK, ESQ.

Reducing Unnecessary Conflict

There is a widespread tendency toward polarization of views in public affairs. Both problems and solutions are thought of in "either/or" terms, and even people who believe essentially the same things can somehow end up arguing with each other.

This phenomenon is especially common in the field of criminal justice. For many years, the general population, the mass media, and even scholars have agreed that a fundamental split exists between the "hard-liners" on one side and the "bleeding heart liberals" on the other. It often seems that these two factions are irreconcilable. They are frequently at loggerheads with respect to questions concerning police work, prosecution, the courts, corrections and juvenile justice.

These often bitter arguments about the "hard" and "soft" approaches to combating crime, and other matters, may well be intensified unnecessarily by the way in which we deal with conflict and disputes in society generally. Typically, when a problem is perceived, different people make different judgments about what caused it and how to solve it. They then try to have whatever solutions they favor put into practice. When it becomes obvious that other people have opposing ideas, there is frequently a confrontation and a standoff – or a continuing controversy, with each side eventually winning a few skirmishes but never ultimately prevailing.

• • •

The various sides often meet in some sort of bargaining or negotiating situation. In the criminal justice sphere, this occurs within planning agencies, at police community relations councils, at inmates' grievance conferences in correctional facilities, at black-white citizens' dialogues in strife-torn communities, and at student-faculty-administration roundtables in high schools with drug, racial and violence problems. It also takes place in the form of encounters between staff members of the same or different agencies.

Even though, in many of these settings, one party is in a legally subordinate role to another, the traditional procedure is usually followed: each side first makes demands and then compromises them in return for concessions from the other side. Such demands are really means to various ends, or goals. In most cases, these means are sincerely offered by their proponents as ways to solve particular problems.

Obviously, however, if the opposing sides have different goals in mind, the means they advocate will likely work at cross-purposes. Even if they share a common goal, the means favored by one (or all) parties may not be effective, may cause unanticipated problems for the parties or others, or may even intensify the original problem.

It might be a wiser approach, therefore, to postpone the advocacy of solutions until each side has stated and explained just what ends it is trying to achieve. The parties may agree with each other on some goals, and may jointly decide that certain goals should be altered, postponed, or dropped. Even if some goals are not held in common by the parties, they can perhaps be formulated so as not to be contradictory or mutually exclusive. The reports of the National Advisory Commission on Criminal Justice Standards and Goals and the American Bar Association's Standards for Criminal Justice may be useful in this process.

• • •

Only after each party's goals have been articulated should thought be given to ascertaining the best ways of reaching those goals. The precise ways in which each possible means would achieve the intended goals must be made clear. The legitimate interests of all parties should be considered, and care should be taken that these interests are accommodated to the maximum extent possible by whatever solutions are chosen, without infringing on the legitimate interests of others. The whole process should be built around a striving for consensus.

• • •

This method could be particularly useful in regard to instituting controversial changes in the criminal justice system and related areas. Although a large body of literature on various aspects of controlling crime and delinquency exists, containing many excellent ideas, much of it simply gathers dust on the library shelves. And much valuable research on related problems, such as drug addiction, alcoholism, mental illness, and other fields has met a similar fate.

The contents of these books, periodicals and reports are not really being applied to help us. We are thus not even close to using all we now know, yet we believe – and correctly so, in many instances – that more research, more study commissions, are needed in those fields. But when that research is done, when those commission hearings have been held, the findings will likely languish along with their predecessors in a state of non-implementation.

Similarly, worthwhile projects implemented on the local level or in only one state may succeed there and yet never be applied elsewhere, even though criminal justice planning agencies and other innovative forces are well aware of them.

One major reason for this unfortunate situation is a fear that tremendous conflict will result if these reforms are suggested merely as pilot projects, let alone full-scale transformations. The approach described above may be useful in helping to establish and effectuate some of these promising ideas.

• • •

Errata

Michael Blinick's column on page 6 of the January-February issue contained typographical errors which confused the meaning of three passages. The correct wording is as follows:

1) "For many illnesses, therapy is totally unsatisfactory, and concentrating on whatever preventive steps are possible is the only effective way to help victims by making sure that they don't become victims in the first place."

2) "If a convict wants to get time off for good behavior and hasten his parole, he must display habits and traits of extreme subserviency which, however well they may please his overseers, do not make for success in the free world. . ."

3) "Many of us outside prison are hardly paragons of good manners or morality, yet we do not break the law. Why should we ask more of prisoners?"